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2 UNITED STATES DISTRICT COURT
3 SOUTHERN DISTRICT OF NEW YORK

4 -----x

5 FRONTIER AIRLINES, INC.,

6 Plaintiff,

7 - against -

8 AMCK AVIATION HOLDINGS IRELAND
9 LIMITED, ACCIPITER INVESTMENT 4
10 LIMITED, VERMILLION AVIATION (TWO)
11 LIMITED, WELLS FARGO TRUST COMPANY,
12 N.A., solely in its capacity as OWNER
13 TRUSTEE, and UMB BANK, N.A., solely in
14 its capacity as OWNER TRUSTEE,

Defendants.

CASE NO.: 1:20-cv-09713-LLS

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14

15 * * * C O N F I D E N T I A L * * *

16

17 ZOOM VIDEOCONFERENCE

18

19 March 30, 2022

20

9:04 a.m. MDT

21

DEPOSITION of SPENCER THWAYTES,
before Melissa Gilmore, a Stenographic Reporter
and Notary Public of the State of New York.

22

Job No. NY5155592

<p>1 2 A P P E A R A N C E S: 3 LANE POWELL PC 4 Attorneys for Plaintiff 5 601 SW Second Avenue, Suite 2100 6 Portland, Oregon 97204-3158 7 BY: DAVID G. HOSENPUDD, ESQ. 8 E-MAIL hosenpudd@lanepowell.com 9 10 11 CLIFFORD CHANCE US LLP 12 Attorneys for Defendants 13 31 West 52nd Street 14 New York, New York 10019-6131 15 BY: JOHN P. ALEXANDER, ESQ. 16 GEGE WANG, ESQ. 17 JEFF BUTLER, ESQ. (Afternoon Session Only) 18 E-MAIL john.alexander@cliffordchance.com 19 gege.wang@cliffordchance.com 20 jeff.butler@cliffordchance.com 21 22 23 24 25</p>	<p>Page 2</p> <p>1 THWAYTES - CONFIDENTIAL 2 S P E N C E R T H W A Y T E S, called as 3 a witness, having been duly placed under 4 oath by a Notary Public, was examined and 5 testified as follows: 6 EXAMINATION BY 7 MR. ALEXANDER: 8 Q. Good morning, Mr. Thwaytes. My name 9 is Jack Alexander. I'm from the law firm of 10 Clifford Chance, and with me is Gege Wang, also 11 from Clifford Chance, and we represent the 12 defendants in the litigation called Frontier 13 versus AMCK and others. 14 Mr. Thwaytes, is this the first time 15 you have had your deposition taken? 16 A. It is. 17 Q. Could you please tell us what your 18 role is at Frontier Airlines? 19 A. Sure. I'm the vice president and 20 treasurer at Frontier Airlines. 21 Q. And what are your job 22 responsibilities? 23 A. I oversee the treasury department, 24 fleet department, strategic sourcing department 25 and tax department.</p>
<p>1 2 FEDERAL STIPULATIONS 3 4 IT IS STIPULATED AND AGREED by 5 and between the attorneys for the respective 6 parties herein, that the filing, sealing, 7 and certification of the within deposition 8 be waived. 9 IT IS FURTHER STIPULATED AND 10 AGREED that all objections, except as to the 11 form of the question, shall be reserved to 12 the time of the trial. 13 IT IS FURTHER STIPULATED AND 14 AGREED that the within deposition may be 15 sworn to and signed before any officer 16 authorized to administer an oath, with the 17 same force and effect as if signed to before 18 the Court. 19 20 21 - oOo - 22 23 24 25</p>	<p>Page 3</p> <p>1 THWAYTES - CONFIDENTIAL 2 (Reporter clarification.) 3 Q. Mr. Thwaytes, so you mentioned that 4 your job responsibilities, just to confirm, are 5 you oversee the treasury department, the fleet 6 department, strategic sourcing and tax. 7 Do I have that right? 8 A. Correct. 9 Q. Okay. And, generally speaking, what 10 is your role with respect to overseeing the 11 treasury department? 12 A. Are you asking what the treasury -- 13 treasury department's roles and 14 responsibilities are or what are my 15 interactions with the department? 16 Q. Generally -- that's a fair request. 17 Generally, what are the 18 responsibilities of the treasury department? 19 A. We make all of the payments. We 20 receive all of the inflows of cash. We invest 21 excess cash. We buy and manage all the 22 insurance policies, buy and manage all of the 23 physical fuel. We place letters of credit and 24 surety bonds. We finance the business outside 25 of aircraft leases.</p>

2 (Pages 2 - 5)

<p style="text-align: right;">Page 6</p> <p>1 THWAYTES - CONFIDENTIAL 2 Those are the main responsibilities 3 of the treasury department. 4 Q. You also mentioned the fleet 5 department. 6 What are the main responsibilities 7 of the fleet department? 8 A. Financing the aircraft with -- 9 financing the aircraft with leases, managing 10 the relationships with Airbus and the engine 11 manufacturer and other aircraft-related 12 relationships; seats, BPUs, all of the other 13 tangential aspects of specing out aircraft and 14 all of the components of all of the aircraft. 15 Q. You mentioned managing the 16 relationship with Airbus. 17 Is Airbus the only manufacturer that 18 Frontier deals with? 19 A. Yes. The only manufacturer that 20 Frontier does business with at this time. 21 Q. You also mentioned the strategic 22 sourcing department. 23 What are the main responsibilities 24 of that department? 25 A. Negotiating contracts for many of</p>	<p style="text-align: right;">Page 8</p> <p>1 THWAYTES - CONFIDENTIAL 2 A. It's a transaction where an airline 3 takes delivery of an aircraft from its order 4 book, and then sells the aircraft to a lessor, 5 and then the lessor leases the aircraft back to 6 the airline for a period of time. 7 Q. You said that the Framework 8 Agreement concerns a number of sale-leaseback 9 transactions. 10 Do you know how many? 11 A. Five sale-leaseback transactions, 12 but I'm not a hundred percent certain. We're 13 doing many sale-leaseback transactions with 14 many lessors, so... 15 Q. If I told you it was six, would that 16 also -- 17 A. Yeah, five or six. I know that 18 there was a number contemplated, and then there 19 was one aircraft delivered under this Framework 20 Agreement, and then a number of aircraft that 21 had not been delivered at the time that these 22 dealings were going on. 23 Q. Prior to the Framework Agreement 24 between AMCK and Frontier, did Frontier already 25 lease a number of aircraft from AMCK or its</p>
<p style="text-align: right;">Page 7</p> <p>1 THWAYTES - CONFIDENTIAL 2 the defendants within the business across a 3 wide range of disciplines; commercial, IT, tech 4 ops, ground handling. Just kind of across a 5 swath of the business. 6 There are some contracts that are 7 managed outside of strategic sourcing, but many 8 of them are managed within strategic sourcing. 9 Q. Mr. Thwaytes, do you understand that 10 this lawsuit relates to the termination of a 11 Framework Agreement between AMCK and Frontier 12 dated March 16, 2020? 13 A. Yes. 14 Q. Just going forward, I will refer to 15 that as the Framework Agreement. 16 Will you understand what I'm 17 referring to? 18 A. I will. 19 Q. Does the Framework Agreement concern 20 a sale-leaseback transaction? 21 A. Yes, Framework Agreement 22 contemplates a number of sale-leaseback 23 transactions for the aircraft. 24 Q. Just generally speaking, what does a 25 sale-leaseback transaction consist of?</p>	<p style="text-align: right;">Page 9</p> <p>1 THWAYTES - CONFIDENTIAL 2 affiliates through owner trusts? 3 A. Yes. 4 Q. Do you know how many other aircraft 5 Frontier leased? 6 A. AMCK. Was it 12 or 14? I forgot. 7 I may be mixing AMCK up with another lessor 8 that at the same time that we ran an RFP for a 9 number of aircraft, and then AMCK, I believe, 10 may have purchased some additional aircraft, 11 the Innovation. 12 So I'm not sure the exact amount at 13 the time, but more than ten. 14 Q. Do you understand that each of those 15 leases is governed by an individual Lease 16 Agreement? 17 A. I understand that they are governed 18 by an individual Lease Agreement. I am not 19 sure whether the individual Lease Agreement -- 20 I'm not sure to the extent that the individual 21 Lease Agreements are interacting with each 22 other. 23 Q. Those agreements are generally in -- 24 those agreements -- strike that. 25 Frontier is the lessee in those</p>

<p style="text-align: right;">Page 10</p> <p>1 THWAYTES - CONFIDENTIAL 2 Lease Agreements, correct? 3 A. Frontier is the lessee. 4 Q. And the lessor is an owner trust 5 entity that's either UMB or Wells Fargo, right? 6 A. Yes, there's been -- that's correct. 7 There's an owner trustee involved. 8 Q. Going forward today, I'm going to 9 refer to those 14 Lease Agreements -- or 12 or 10 14, whatever it is, as the 14 Lease Agreements 11 or the 14 original leases. 12 Will you understand what I'm 13 referring to? 14 A. Yes. 15 Q. Frontier was required to pay rent in 16 connection with each of those Lease Agreements, 17 correct? 18 A. Yes. 19 Q. The rent was due monthly? 20 A. Yes. 21 Q. And for each Lease Agreement, would 22 the monthly rent amount be due on the same 23 calendar day each month? 24 A. I'm not certain, in these leases, if 25 it's the same calendar day each month or</p>	<p style="text-align: right;">Page 12</p> <p>1 THWAYTES - CONFIDENTIAL 2 calculated would be starting from the next -- 3 from the Monday after the weekend or if the 4 payment would fall on the Friday before the 5 weekend. I'm not sure in this case -- or in 6 these leases. 7 Q. As part of your job of overseeing 8 the treasury department, I believe you said you 9 were responsible for overseeing the making of 10 payments on leases, right? 11 A. I have a team of analysts that put 12 together all of the payments that are due every 13 month for all of the aircraft leases, and every 14 month they bring those payments through an 15 approval process that I'm involved in reviewing 16 and approving, and then a separate -- my 17 treasury team then processes those payments. 18 So my responsibility is making those 19 payments in a timely manner, but I have 20 infrastructure in place to make sure that the 21 payments are done when they are required to be 22 paid. 23 Q. You mentioned your team. 24 Who on your team had responsibility 25 for leases relating to the AMCK leases that we</p>
<p style="text-align: right;">Page 11</p> <p>1 THWAYTES - CONFIDENTIAL 2 exactly how it was determined which day it was 3 each month. 4 I assume that it was the same 5 calendar day each month, but I'm not certain. 6 Q. Did you understand whether there was 7 any grace period associated with rent payments 8 made after a due date? 9 A. Yes. 10 Q. And what was your understanding of 11 any applicable grace periods under the Lease 12 Agreements? 13 A. Under the Lease Agreements, the 14 grace period, after the due date, I believe is 15 three days. 16 Q. Sorry. You cut out a bit. 17 Three days you said? 18 A. Three days. And I would like to 19 add, three business days. 20 Q. Do you know when a payment would be 21 due if a due date fell on a weekend? 22 A. You would start -- I believe you 23 would start counting from the first business 24 day -- well, I'm not sure in this lease, 25 frankly, if the -- if the way that it would be</p>	<p style="text-align: right;">Page 13</p> <p>1 THWAYTES - CONFIDENTIAL 2 have been discussing? 3 A. At the time, Sharath was the 4 fleet -- I think he was a manager at the time 5 or an analyst at the time. I'm not certain 6 when he was promoted. 7 Q. And what's Sharath's full name? 8 A. Sashikumar Bindu. 9 THE REPORTER: Can you spell that, 10 please? 11 THE WITNESS: S-A-S-H-I-K-U-M-A-R, 12 and then another part of his name is 13 Bindu, B-I-N-D-U. I hope he doesn't get 14 mad at me for misspelling his name. 15 Q. We won't tell him. 16 And Mr. Bindu reported to you? 17 A. No, he reports to Robert Fanning, 18 and then Robert Fanning reported to me at the 19 time. 20 Q. When it came time to make payments 21 of rent, how did Frontier know what days to 22 make those payments on? 23 A. We have a schedule that is kept 24 after leases are entered into that records when 25 payments are due and the amounts that are due.</p>

4 (Pages 10 - 13)

<p style="text-align: right;">Page 14</p> <p>1 THWAYTES - CONFIDENTIAL 2 Q. And who is responsible for keeping 3 track of that schedule? 4 A. Sharath. 5 Q. Did you also receive invoices from 6 lessors? 7 A. I don't see the invoices from 8 lessors. I believe lessors often send 9 invoices, but we have a schedule to determine 10 when payments are due regardless of the day 11 they send them. 12 Q. Is there anyone on your team who is 13 responsible for receiving or monitoring 14 invoices from lessors? 15 A. Sharath. 16 Q. Mr. Thwaytes, through the end of 17 March 2020, to your knowledge, did Frontier 18 make all rent payments that were due under the 19 14 original leases? 20 A. Through the end of March 2020 or the 21 beginning of March of 2020? 22 Q. Well, let me break that down. 23 So prior to the beginning of 24 March 2020, to your knowledge, had Frontier 25 made all rent payments that were due under the</p>	<p style="text-align: right;">Page 16</p> <p>1 THWAYTES - CONFIDENTIAL 2 discussions took place. 3 Q. And were you personally involved in 4 those discussions? 5 A. I thought that your question was did 6 I have any discussions with them. 7 I am saying that I am not -- I don't 8 remember if I had discussions with them in -- 9 if it was in late March or March or early 10 April, and other people that work for me, 11 Robert, for example, probably did have -- or 12 did have discussions with AMCK in March of 13 2020. 14 I thought your question was asking 15 me if I did. 16 Q. Just to confirm, you don't recall 17 personally having any discussions with AMCK in 18 March 2020? 19 A. Correct. 20 Q. Do you recall personally having any 21 discussions with AMCK about a rent deferral or 22 grace period in April 2020? 23 A. Yes. We did have discussions. 24 Q. When were those discussions? 25 A. I don't remember the dates.</p>
<p style="text-align: right;">Page 15</p> <p>1 THWAYTES - CONFIDENTIAL 2 14 original leases? 3 A. Yes, to my knowledge. 4 Q. To your knowledge, did Frontier make 5 all rent payments that were due on the 14 6 original leases during the month of March 2020? 7 A. To my knowledge, we made all of the 8 payments that were due unless we were told by 9 AMCK that we did not need to make the payments 10 while we were discussing payment deferrals and 11 other things. 12 Q. Did you have any discussions with 13 AMCK in March 2020 related to any payment 14 deferrals? 15 A. We had correspondence via e-mail and 16 documents attached to e-mail. I don't recall 17 if we had conversations in March 2020. 18 Q. You mentioned e-mail and 19 documentation. 20 Did you have any oral discussions 21 with anyone at AMCK during March 2020 22 concerning any rent deferral? 23 A. I don't know if the oral discussions 24 that we had took place in March or early April. 25 I don't recall the dates of when the</p>	<p style="text-align: right;">Page 17</p> <p>1 THWAYTES - CONFIDENTIAL 2 Q. And were those written e-mail 3 discussions? 4 A. There was e-mail correspondence and 5 I believe phone conversations as well. 6 Q. I appreciate that you don't recall 7 the dates, but just to confirm, your testimony 8 is you do recall having phone discussions in 9 April 2020 with AMCK about rent grace periods? 10 A. Yes. 11 Q. All right. Let's -- 12 MR. ALEXANDER: Gege, can we please 13 put up Exhibit 1? 14 MS. WANG: Can everybody see this? 15 THE WITNESS: Yes. 16 MR. HOSENPUD: Can you give me the 17 Bates number? 18 MR. ALEXANDER: Will do. This is a 19 compilation of documents which we will 20 send to you. It's got a series of Bates 21 numbers starting with FRONTIER0002245. 22 Gege, could you please send a copy 23 of this to David when you have a chance? 24 MS. WANG: Sure. 25 (Thwaytes Exhibit 1, Compilation of</p>

5 (Pages 14 - 17)

<p style="text-align: right;">Page 18</p> <p>1 THWAYTES - CONFIDENTIAL 2 Invoices, Bates Stamped FRONTIER0002245, 3 marked for identification.) 4 Q. Mr. Thwaytes, I would like to call 5 your attention to the first page of this 6 document. 7 MR. ALEXANDER: And, Gege, maybe we 8 could zoom out a bit so we can see more of 9 it. There we go. 10 Q. So, Mr. Thwaytes, this is an 11 invoice, invoice date 07 Jan 2020. It relates 12 to an aircraft Lease Agreement dated 5 13 June 2018 in respect of Airbus A320-251N 14 aircraft with MSN 8239. 15 Do you see that? 16 A. I do. 17 Q. What does MSN mean? 18 A. That's the manufacturer serial 19 number for the aircraft. 20 Q. Do you understand that MSN 8239 is 21 an aircraft that Frontier leases under one of 22 the 14 Lease Agreements we discussed earlier? 23 A. I don't remember all of the MSNs 24 with all of the lessors. So I don't know that 25 besides looking at it on this page.</p>	<p style="text-align: right;">Page 20</p> <p>1 THWAYTES - CONFIDENTIAL 2 A. I do. 3 Q. Is MSN 8102 an aircraft leased by 4 Frontier from AMCK or affiliated entities? 5 A. According to this document. But 6 like I said previously, I don't recall all of 7 the MSNs for all of the aircraft and what 8 lessors they are all associated with. 9 Q. Do you have any reason to believe 10 that MSN 8102 is not an aircraft leased from 11 AMCK? 12 A. I don't have any reason to believe 13 that. 14 Q. The invoice describes a payment due 15 date of April 6, 2020, and a total amount due 16 of \$354,139.30. 17 Do you see that? 18 A. I do. 19 Q. Do you have any reason to believe 20 that information is inaccurate? 21 A. I don't have any reason to believe 22 that. 23 Q. Let's go to the next page. This is 24 an invoice dated January 7, 2020, and it 25 concerns an aircraft Lease Agreement dated 9</p>
<p style="text-align: right;">Page 19</p> <p>1 THWAYTES - CONFIDENTIAL 2 Q. The invoice describes a payment date 3 of April 3, 2020. 4 Do you see that? 5 A. I do. 6 Q. And it describes the amount due in 7 this invoice as \$342,532.39. 8 Do you see that? 9 A. I see that. 10 Q. Do you have any reason to believe 11 that this information is inaccurate? 12 A. I don't have any reason to believe 13 that. 14 Q. Is this the sort of invoice that the 15 treasury department maintained? 16 A. These are the invoices that are sent 17 to our fleet analyst from lessors. It's like a 18 relatively standard form. 19 Q. Could we please look at the next 20 page? And you will see this is another 21 invoice. This one dated January 7, 2020. 22 It describes an aircraft Lease 23 Agreement dated 6 March 2018 in respect of one 24 Airbus A320-251N aircraft with MSN 8102. 25 Do you see that?</p>	<p style="text-align: right;">Page 21</p> <p>1 THWAYTES - CONFIDENTIAL 2 May 2019 in respect of one Airbus A320-251N 3 aircraft with MSN 8913. 4 Do you see that? 5 A. I do. 6 Q. Is MSN 8913 an aircraft that 7 Frontier leases from AMCK or affiliated 8 entities? 9 A. I don't recall which MSN is 10 associated with which lessor, but based off of 11 what I'm seeing in this invoice, it appears to 12 be. 13 Q. The invoice describes a payment due 14 date of April 9, 2020, and a total amount due 15 of \$344,568.92. 16 Do you see that? 17 A. I do. 18 Q. Do you have any reason to believe 19 that information is inaccurate? 20 A. No. 21 Q. Let's go to the next page. 22 Mr. Thwaytes, this is an invoice 23 dated November 12, 2019, with a payment due 24 date of April 17, 2020, and it relates to 25 aircraft operating Lease Agreement dated as of</p>

6 (Pages 18 - 21)

<p style="text-align: right;">Page 22</p> <p>1 THWAYTES - CONFIDENTIAL 2 June 9, 2014, in respect of one Airbus A320-200 3 aircraft with MSN 06184. 4 Do you see that? 5 A. I do. 6 Q. And the total amount due on 7 April 17, 2020, was \$343,186. 8 Do you see that? 9 A. I do. 10 Q. Do you have any reason to believe 11 that information is inaccurate? 12 A. I don't, except it seems odd the 13 invoice date is in November of 2019 and the 14 payment due date is in April of 2020. I notice 15 that, but it just seems odd. 16 Q. Do you have an understanding of when 17 invoices typically would be sent in connection 18 with the Lease Agreements? 19 A. Based on the previous invoices you 20 just showed me, there were invoices that were 21 sent in 2020, for payments due in 2020. So 22 this has an invoice date of 2019 and a payment 23 date in 2020. So it just seems odd. 24 (Reporter Clarification.) 25 A. The previous invoices you showed me</p>	<p style="text-align: right;">Page 24</p> <p>1 THWAYTES - CONFIDENTIAL 2 Q. Mr. Thwaytes, we have just looked at 3 a number of invoices that described payment due 4 dates of April 3, 2020, April 6, 2020, April 9, 5 2020, April 17, 2020, and then finally again on 6 April 17, 2020. 7 Do you know if Frontier paid any of 8 these invoices on those due dates described 9 therein? 10 A. I believe Frontier did not pay these 11 invoices on these -- on the due dates described 12 herein because of conversations and 13 interactions with AMCK that led us to believe 14 that we did not need to make these payments on 15 these due dates. 16 Q. But just to confirm, whatever the 17 reason, Frontier did not make payment on those 18 dates, right? 19 A. Correct. 20 Q. I'm not asking you to calculate, but 21 it looks roughly like \$1.7 million on those 22 first five invoices we looked at. I don't know 23 if you were able to get a sense, but does that 24 sound correct to you? 25 A. Five invoices, 300 grand, 1.5 plus</p>
<p style="text-align: right;">Page 23</p> <p>1 THWAYTES - CONFIDENTIAL 2 were all -- all had an invoice date of Jan 2020 3 or more recent with payment dates in 4 April 2020, and this is -- this invoice has an 5 invoice date of November 2019. 6 So it just comes off as odd that the 7 invoice date is so far in advance of the 8 payment due date, but I don't have any -- I 9 don't know why or have any feedback that it's 10 incorrect. It just looks odd. 11 Q. Let's go to the next page. 12 This is an invoice dated January 7, 13 2020. It relates to an aircraft Lease 14 Agreement dated 19 August 2019 in respect of 15 one Airbus A320-251N aircraft with MSN 9068. 16 Do you see that? 17 A. I do. 18 Q. And it describes a payment due date 19 of 17 April 2020 and a total amount due of 20 \$323,126.20. 21 Did I read that correctly? 22 A. You did. 23 Q. Do you have any reason to believe 24 that information is inaccurate? 25 A. No.</p>	<p style="text-align: right;">Page 25</p> <p>1 THWAYTES - CONFIDENTIAL 2 some change. You can get to 1.6, 1.7, just 3 doing rough math. 4 Q. Can we go to the next page, please? 5 This is an invoice dated 6 November 25, 2019, with a payment due date of 7 April 22, 2020. It relates to aircraft Lease 8 Agreement dated 22 March 2019 in respect of one 9 Airbus A320-251N aircraft with MSN 8766. 10 Do you see that? 11 A. I do. 12 Q. And it describes a payment due on 13 April 22, 2020, of \$347,864.42. 14 Do you see that? 15 A. I do. 16 Q. Do you have any reason to believe 17 that information is inaccurate? 18 A. No. But, again, the invoice date 19 and the payment date are pretty spread out, 20 which just comes off as odd, but I don't know 21 why off the top. 22 Q. Let's look at the next page. 23 This is an invoice dated January 7, 24 2020. It's a payment due date of April 23, 25 2020. It concerns aircraft Lease Agreement</p>

7 (Pages 22 - 25)

<p style="text-align: right;">Page 26</p> <p>1 THWAYTES - CONFIDENTIAL 2 dated 23 April 2019 in respect of one Airbus 3 A320-251N aircraft with MSN 8857. 4 Do you see that? 5 A. I do. 6 Q. And it describes a total amount due 7 on April 23, 2020, of \$347,600.78. 8 Did I read that correctly? 9 A. You did. 10 Q. Do you have any reason to believe 11 that information is inaccurate? 12 A. I don't. 13 Q. Let's look at the next page. 14 This is an invoice dated March 19, 15 2020. It concerns aircraft operating Lease 16 Agreement dated as of February 19, 2016, in 17 respect of one Airbus A321-200 aircraft with 18 MSN 7524. 19 Do you see that? 20 A. I do. 21 Q. This invoice and all the prior ones 22 appear to be from Accipiter Investments 23 Aircraft 4 Limited. 24 Do you see that? 25 A. It appears that way in the account</p>	<p style="text-align: right;">Page 28</p> <p>1 THWAYTES - CONFIDENTIAL 2 This is an invoice dated 25 3 November 2019. It concerns aircraft Lease 4 Agreement dated 27 June 2019 in respect of one 5 Airbus A320-251N aircraft with MSN 8977. 6 Do you see that? 7 A. I do. 8 Q. It describes a payment due date of 9 April 27, 2020, in the amount of \$331,694.50. 10 Do you see that? 11 A. Yes. 12 Q. Do you have any reason to believe 13 that information is inaccurate? 14 A. No, except for the odd gap between 15 the invoice date and the payment due date 16 again. 17 Q. Let's look at the next page. 18 This is an invoice dated 19 November 25, 2019. It concerns aircraft Lease 20 Agreement dated 28 June 2019 in respect of one 21 Airbus A320-251N aircraft with MSN 9026. 22 Do you see that? 23 A. I do. 24 Q. It describes a payment due date of 25 April 28, 2020, and a total amount due of</p>
<p style="text-align: right;">Page 27</p> <p>1 THWAYTES - CONFIDENTIAL 2 name. 3 Q. Do you know who Accipiter 4 Investments Aircraft 4 Limited is? 5 A. I don't know specifically who it is, 6 but I assume that it is a entity that is part 7 of AMCK's corporate structure that is the 8 lessor for these aircraft. 9 Q. Does Frontier have any business with 10 Accipiter Investments Aircraft 4 Limited? 11 A. It appears that we do, based off of 12 this invoice naming them as -- as the account 13 name for a payment that is due to -- for one of 14 the aircraft that, per this invoice, is leased 15 to Frontier from AMCK. 16 Q. And this invoice concerning MSN 7524 17 describes a payment due on April 24, 2020, of 18 \$362,630.80. 19 Did I read that correctly? 20 A. You did. 21 Q. Do you have any reason to believe 22 that information is inaccurate? 23 A. I don't have any reason to believe 24 that. 25 Q. Let's turn to the next page.</p>	<p style="text-align: right;">Page 29</p> <p>1 THWAYTES - CONFIDENTIAL 2 \$332,243.75. 3 Did I read that correctly? 4 A. You did. 5 Q. Do you have any reason to believe 6 that information is inaccurate? 7 A. No, except, again, for the odd gap 8 between the invoice date and the payment date. 9 Q. And as you testified earlier, that's 10 just -- you're noticing the dates. You don't, 11 yourself, have an understanding of when 12 invoices were sent, correct? 13 A. I don't receive the invoices. They 14 are received by -- by people on the fleet team. 15 I would just look at an invoice like this and 16 question why the invoice date is in 17 November 2019, almost six months prior to when 18 the payment due date is and wonder why. 19 And you're asking me if all of this 20 is accurate to the best of my knowledge by 21 looking at this, and it appears so, but I would 22 question why there is such a gap in the invoice 23 date and the payment date naturally, as I 24 review things like this. 25 But I don't know why there is that</p>

<p style="text-align: right;">Page 30</p> <p>1 THWAYTES - CONFIDENTIAL 2 gap, and I don't know if there is an issue with 3 that gap. 4 Q. Let's go to the next page, please. 5 This is an invoice dated 6 November 25, 2019. It concerns aircraft Lease 7 Agreement dated 29 August 2018 in respect of 8 one Airbus A320-251N aircraft with MSN 8307. 9 Do you see that? 10 A. I do. 11 Q. It describes a payment due date of 12 April 29, 2020, and a total amount due of 13 \$342,554.02. 14 Do you see that? 15 A. I do. 16 Q. And do you have any reason to 17 believe that information is inaccurate other 18 than the invoice date that you've mentioned 19 before? 20 A. Other than the gap between the 21 invoice date and the payment date, looking at 22 it quickly, I don't see anything that would 23 appear to be inaccurate. 24 Q. Let's go to the next page, which is 25 an invoice dated November 12, 2019. It</p>	<p style="text-align: right;">Page 32</p> <p>1 THWAYTES - CONFIDENTIAL 2 Agreement dated 31 July 2018 in respect of one 3 Airbus A320-251N aircraft with MSN 8357. 4 Do you see that? 5 A. I do. 6 Q. It describes a payment due date of 7 April 30, 2020, and a total amount due of 8 \$345,236.14. 9 Did I read that right? 10 A. You did. 11 Q. Do you have any reason to believe 12 that information is inaccurate? 13 A. No, other than the odd gap between 14 the invoice date and the payment date. 15 Q. Let's go to the next page. 16 This is an invoice dated 25 17 November 2019. It concerns aircraft Lease 18 Agreement dated 30 August 2018 in respect of 19 one Airbus A320-251N aircraft with MSN 8402. 20 Do you see that? 21 A. I do. 22 Q. It describes a payment due date of 23 April 30, 2020, and a total amount due of 24 \$343,181.29. 25 Do you see that?</p>
<p style="text-align: right;">Page 31</p> <p>1 THWAYTES - CONFIDENTIAL 2 concerns aircraft Lease Agreement dated 30 3 September 2019 in respect of one Airbus 4 A320-251N aircraft with MSN 9177. 5 Do you see that? 6 A. I do. 7 Q. Do you know if MSN 9177 is an 8 aircraft that Frontier leases from AMCK or 9 affiliated entities? 10 A. I don't know off the top, as I don't 11 know which MSN is associated with each lessor, 12 but according to this invoice that I'm looking 13 at, it appears to be associated with AMCK. 14 Q. The invoice describes a payment due 15 date of April 30, 2020, and a total due of 16 \$326,641.40. 17 Do you see that? 18 A. I do. 19 Q. Do you have any reason to believe 20 that information is inaccurate? 21 A. No, other than the odd gap between 22 the invoice date and the payment due date. 23 Q. Let's go to the next page. 24 This is an invoice dated 25 November 25, 2019. It concerns aircraft Lease</p>	<p style="text-align: right;">Page 33</p> <p>1 THWAYTES - CONFIDENTIAL 2 A. I do. 3 Q. Do you have any reason to believe 4 that information is inaccurate? 5 A. I don't, except for the odd gap 6 between the invoice date and the payment due 7 date. 8 Q. Let's go to the next page. 9 This is an invoice dated January 7, 10 2020. It concerns aircraft Lease Agreement 11 dated 5 June 2018 in respect of Airbus 12 A320-251N aircraft with MSN 8239. 13 Do you see that? 14 A. I do. 15 Q. And it describes a payment due date 16 of May 5, 2020, and a total amount due of 17 \$342,532.39. 18 Do you see that? 19 A. I do. 20 Q. Do you have any reason to believe 21 that information is inaccurate? 22 A. I don't, except for the almost five 23 month gap between the invoice date and the 24 payment due date. 25 Q. Let's go to the next page.</p>

9 (Pages 30 - 33)

<p>1 THWAYTES - CONFIDENTIAL 2 This is an invoice dated January 7, 3 2020. It concerns aircraft Lease Agreement 4 dated 6 March 2018 in respect of one Airbus 5 A320-251N aircraft with MSN 8102. 6 Do you see that? 7 A. I do. 8 Q. And it describes a payment due date 9 of May 6, 2020, and a total amount due of 10 \$354,139.30. 11 Do you see that? 12 A. I do. 13 Q. Do you have any reason to believe 14 that information is inaccurate? 15 A. I don't. 16 Q. Let's go to the next page. 17 This is an invoice dated January 7, 18 2020, concerning aircraft Lease Agreement dated 19 9 May 2019 in respect of one Airbus A320-251N 20 aircraft with MSN 8913. 21 Do you see that? 22 A. I do. 23 Q. And this describes a payment due 24 date of May 8, 2020, and a total amount due of 25 \$344,568.92.</p>	<p>Page 34</p> <p>1 THWAYTES - CONFIDENTIAL 2 any of these invoices during the month of 3 April 2020? 4 A. No, to my knowledge, we didn't. 5 Q. To your knowledge, did Frontier pay 6 any -- 7 A. Actually, we may have paid one of 8 the invoices. There was one aircraft where 9 Accipiter or AMCK had asked us to continue to 10 be current on, and we made the payment on the 11 due date for that aircraft. 12 Q. And do you know what the MSN for 13 that aircraft was? 14 A. I don't off the top, no. 15 Q. Do you know if that aircraft related 16 to one of the 14 original leases we have been 17 discussing or a newer aircraft delivered under 18 the Framework Agreement? 19 A. I'm trying to recall if it was one 20 of the 14 that was in the process of being 21 novated or if it was the first aircraft 22 delivered under the Framework Agreement, and I 23 don't recall which aircraft it was. I just 24 recall that there was one aircraft that AMCK 25 requested that we pay on the due date and we</p>
<p>1 THWAYTES - CONFIDENTIAL 2 Do you see that? 3 A. I do. 4 Q. Do you have any reason to believe 5 that information is inaccurate? 6 A. No, except for the gap between the 7 invoice date and the payment due date again. 8 Q. Mr. Thwaytes, what we have been 9 looking at is a collection of invoices with 10 different payment due dates. The very first 11 invoice we looked at had a payment due date of 12 April 3, 2020, and the most recent invoice, at 13 the end of the document that we looked at, had 14 a payment due date of May 8, 2020. 15 Do you know or did you have a chance 16 to get a sense of the total amount of invoice 17 amounts involved? 18 A. I didn't. I wasn't calculating the 19 amounts while we were going through them, but 20 it looks like they are averaging around 340,000 21 per invoice. And I didn't count how many we 22 just went through, but you could do the math to 23 get an idea. Somewhere in the three and a 24 half, \$4 million range it seems. 25 Q. To your knowledge, did Frontier pay</p>	<p>Page 35</p> <p>1 THWAYTES - CONFIDENTIAL 2 did. 3 Q. And you don't know whether the 4 aircraft you are thinking of is one of the 5 aircraft numbers that we just looked at, right? 6 A. I don't. 7 Q. Other than that one aircraft that 8 you are thinking of, did Frontier pay invoices 9 for any other leases to AMCK during the month 10 of April 2020? 11 A. I don't believe so. 12 MR. ALEXANDER: Let's put up, as 13 Exhibit 2, FRONTIER00328. 14 (Thwaytes Exhibit 2, E-Mail, Bates 15 Stamped FRONTIER0002245 through 332, 16 marked for identification.) 17 Q. Mr. Thwaytes, this is an e-mail 18 dated May 8, 2020, from Paul Sheridan to you, 19 Howard Diamond and others. 20 Do you see that? 21 A. I do. 22 Q. And in the e-mail, Mr. Sheridan 23 says, "Dear Spencer and Howard, please find 24 attached notice for your attention." 25 Did I read that correctly?</p>

10 (Pages 34 - 37)

<p style="text-align: right;">Page 38</p> <p>1 THWAYTES - CONFIDENTIAL 2 A. You did. 3 Q. Let's look at the next page of the 4 document, which describes itself as a Notice of 5 Termination dated May 8, 2020. 6 Do you see that? 7 A. I do. 8 Q. Do you recall receiving this 9 document? 10 A. I do. 11 Q. Do you see in the second paragraph 12 the notice states, "Frontier has failed to make 13 payment of basic rent when due under various 14 Other Agreements (as defined in the MSN 10038 15 Lease Agreement), and the grace periods for 16 payment of such amounts has expired under the 17 terms of such agreements." 18 Do you see that? 19 A. I do. 20 Q. It goes on to state "Details of the 21 past due amounts are set forth in the schedule 22 to this notice." 23 Do you see that? 24 A. I do. 25 Q. Let's go to the last page of this</p>	<p style="text-align: right;">Page 40</p> <p>1 THWAYTES - CONFIDENTIAL 2 A. I do. 3 Q. Have you ever checked any of the 4 information in this schedule to see whether it 5 was accurate? 6 A. I personally have not checked this 7 information to make sure that it was accurate. 8 Q. Have you asked anyone at Frontier to 9 do any kind of check like that? 10 A. When I received this documentation, 11 I forwarded it to counsel and then proceeded to 12 discuss this document with counsel. 13 Q. Without getting into your 14 discussions with counsel, has anyone at 15 Frontier, to your knowledge, ever checked any 16 of the information in this Schedule 1 for 17 accuracy? 18 A. The discussions around this document 19 were with counsel. 20 Q. Do you have any reason to believe 21 that any of the information describing invoices 22 and payment amounts and payment due dates is 23 inaccurate? 24 A. I don't have any reason to believe 25 that it's inaccurate.</p>
<p style="text-align: right;">Page 39</p> <p>1 THWAYTES - CONFIDENTIAL 2 document, which is Bates number page 3 FRONTIER00332. This is Schedule 1, payment 4 delinquencies. 5 Do you see that? 6 A. Yes. 7 Q. And it's a list of various MSN. 8 Do you understand those to be MSN 9 that Frontier leases from AMCK? 10 A. I don't have the ability to 11 cross-check them at the moment, so I can't 12 confirm that. 13 Q. You said you recalled receiving this 14 notice. 15 Have you ever gone back and checked 16 whether any of these MSNs are not leased by 17 Frontier? 18 A. I have never personally went and 19 cross-checked whether these MSNs were not 20 leased by -- from AMCK or Accipiter. 21 Q. These -- each row of this chart in 22 Schedule 1 identifies an MSN, a payment type, 23 an invoice reference, a due amount in US 24 dollars and a due date. 25 Do you see that?</p>	<p style="text-align: right;">Page 41</p> <p>1 THWAYTES - CONFIDENTIAL 2 MR. ALEXANDER: Let's look at 3 Exhibit 3, FRONTIER8058. 4 (Thwaytes Exhibit 3, E-Mail Chain, 5 Bates Stamped FRONTIER0008058 through 6 8059, marked for identification.) 7 Q. Let's look at the very top of this 8 document. 9 Mr. Thwaytes, this is a Wednesday, 10 May 13 e-mail from Erik Hauglid, H-A-U-G-L-I-D, 11 to Mr. Bindu and you and others. 12 Do you see that? 13 A. I do. 14 Q. Who is Eric Hauglid? 15 A. He's a director on my treasury team 16 that works for me. 17 Q. And if you look down on the 18 document, you will see that there is a series 19 of e-mails on May 13, including at the bottom 20 of the page an e-mail from Mr. Sashikumar Bindu 21 on May 13 to Jimmy Dempsey, you and others. 22 Do you see that? 23 A. I do. 24 Q. The e-mail says, "Hi Jimmy, please 25 approve the following payments to AMCK in light</p>

<p style="text-align: right;">Page 42</p> <p>1 THWAYTES - CONFIDENTIAL 2 of recent discussions with them. 14 payments 3 are from April and 3 from May thus far." 4 Do you see that? 5 A. I do. 6 Q. So that's a total of 17 payments 7 that Mr. Bindu is describing here, right? 8 A. If you scroll up, 1 through 8, 9 9 through 17. Looks like 17 payments. 10 Q. And do you understand those payments 11 to relate to the 14 original leases for the due 12 dates of payments in April and the due date of 13 payments in May prior to this e-mail? 14 A. It would be helpful if I could 15 review to see if any of the aircraft or MSNs 16 are repeated to see if -- it's difficult to do 17 in this document, but... 18 Q. Take your time. We can pause and go 19 as slowly as you like. 20 A. So zoom out if you could. I just 21 don't have scratch paper or anything with me, 22 but -- out if you could, so I could see it all 23 at the same time. 24 MS. WANG: I see. I'm sorry. So 25 zoom out a little further like this?</p>	<p style="text-align: right;">Page 44</p> <p>1 THWAYTES - CONFIDENTIAL 2 into a new topic, David. We can take a 3 break now, or, Mr. Thwaytes, whatever your 4 preference is. 5 MR. HOSENPUD: Yes, I agree let's 6 take a break. Thank you. 7 (Recess taken.) 8 BY MR. ALEXANDER: 9 Q. Mr. Thwaytes, we have been talking 10 about the 14 original leases that Frontier had 11 for Airbus A320 aircraft with AMCK or its 12 affiliates before entering the Framework 13 Agreement with AMCK in March 2020. 14 Do you understand that Frontier 15 began leasing an additional aircraft from AMCK 16 in March 2020? 17 A. Yes. 18 Q. Was that MSN 10038 or do you know? 19 A. I don't recall the MSN. 20 Q. But the new aircraft that Frontier 21 began leasing in March 2020, that was pursuant 22 to the Framework Agreement, to your 23 understanding? 24 A. Yes. 25 Q. Do you know when that aircraft was</p>
<p style="text-align: right;">Page 43</p> <p>1 THWAYTES - CONFIDENTIAL 2 THE WITNESS: There you go. 3 A. (Document review.) 4 It looks like there's two payments 5 for each of three aircraft. So what you're 6 describing seems accurate. 7 Q. Do you know if, in fact, these 8 payments were ever paid to AMCK? 9 A. Yes, I know that the wires were 10 released from Frontier through our bank 11 account, and so I am aware that the payments 12 were made. 13 Q. Do you know when the payments were 14 made? 15 A. On May 13, I believe is the date. 16 Q. Do you know when AMCK received that 17 payment? 18 A. I don't have access to AMCK's bank 19 accounts, so I don't know when they received 20 the payment, but I know the standard process 21 for wire payments being sent and the funds are 22 very close to immediate. There is a latency in 23 between, but I don't know when they received 24 them. But they are paid by wire. 25 MR. ALEXANDER: I'm going to head</p>	<p style="text-align: right;">Page 45</p> <p>1 THWAYTES - CONFIDENTIAL 2 delivered? 3 A. I don't remember the delivery date. 4 MR. ALEXANDER: Gege, can you please 5 put up FRONTIER0238, and we will make that 6 Exhibit 4. 7 (Thwaytes Exhibit 4, E-Mail Chain, 8 Bates Stamped FRONTIER0000238 through 239, 9 marked for identification.) 10 Q. Mr. Thwaytes, this is a March 16, 11 2020, e-mail from you to Jane O'Callaghan and 12 others. 13 Do you see that? 14 A. Yep. 15 Q. And if you look down at the second 16 e-mail on the page, this is an e-mail from Jane 17 O'Callaghan to you and others on March 16, 18 Monday, at 6:59 a.m. 19 Do you see that? 20 A. I do. 21 Q. And she says, the subject, "Delivery 22 of MSN 10038." And Ms. O'Callaghan states, 23 "Congratulations to the Frontier team on the 24 successful delivery and sale/leaseback to AMCK 25 of MSN 10038 a short while ago. Great teamwork</p>

12 (Pages 42 - 45)

<p style="text-align: right;">Page 46</p> <p>1 THWAYTES - CONFIDENTIAL 2 across the board over the last three days." 3 Do you see that? 4 A. Yes. 5 Q. Does that refresh your recollection 6 as to when the new aircraft in March 2020 was 7 delivered? 8 A. Yeah, I recall it was sometime in 9 the middle of March 2020. So it says March 16. 10 That makes sense. 11 Q. And you reply in your e-mail shortly 12 thereafter at 7:18 a.m. to say, "Thank you, 13 Jane and team." Is that right? 14 A. Yep. 15 Q. So do you have any reason to believe 16 this is wrong, this information? 17 A. No. 18 Q. So is it fair to say that the 19 aircraft delivered in mid March 2020 was 20 delivered in the morning of March 16? 21 A. I don't know if the transfer of 22 title took place in the morning of March 16 or 23 if it took place at the Airbus facility on 24 March 15 and received an e-mail on March 16. 25 So I'm not certain of those dates.</p>	<p style="text-align: right;">Page 48</p> <p>1 THWAYTES - CONFIDENTIAL 2 MR. ALEXANDER: Yes, this is the 3 Framework Agreement. 4 (Thwaytes Exhibit 5, Framework 5 Agreement, Bates Stamped AMCK000001 6 through 53, marked for identification.) 7 Q. Mr. Thwaytes, the document that you 8 can see on screen is a Framework Agreement 9 relating to the purchase and leaseback of six 10 new Airbus model A320-251N aircraft, and it's 11 between AMCK Aviation Holdings Ireland Limited 12 and Frontier Airlines, Inc. 13 Do you see that? 14 A. I see that. 15 Q. Have you ever seen this document 16 before? 17 A. I have. 18 Q. And do you understand this is the 19 Framework Agreement that we have been 20 discussing today? 21 A. Based off of the front page that 22 you're showing me, it is. 23 Q. Let's please turn to AMCK0040. 24 This is Schedule 1 to the Framework 25 Agreement. It lists six aircraft with six</p>
<p style="text-align: right;">Page 47</p> <p>1 THWAYTES - CONFIDENTIAL 2 I'm assuming the same or pretty close together. 3 I just don't recall the exact date that the 4 aircraft transferred title. 5 Q. Do you understand that this aircraft 6 that was delivered was the first aircraft 7 delivered pursuant to the Framework Agreement? 8 A. Yep. 9 Q. Do you know what the schedule of 10 delivery was from the remaining aircraft under 11 the Framework Agreement? 12 A. I know the delivery dates for those 13 aircraft changed as we went through that period 14 of time. So I have a lot of months in my head. 15 So I don't recall the original 16 delivery months for those aircraft. And then 17 I -- so I don't recall the original delivery 18 months for those aircraft, if that's what your 19 question is asking, and the original or the 20 delivery dates were unknown at this time, the 21 actual dates because they were in the future. 22 MR. ALEXANDER: Gege, could we 23 please put up AMCK0040, and we will make 24 this Exhibit 5. 25 MS. WANG: 0040?</p>	<p style="text-align: right;">Page 49</p> <p>1 THWAYTES - CONFIDENTIAL 2 scheduled delivery quarter or scheduled 3 delivery months. 4 Do you see that? 5 A. I see that. 6 Q. The aircraft number 1, which is not 7 identified, has a scheduled delivery quarter or 8 month of March 2020. 9 Do you see that? 10 A. I do. 11 Q. Aircraft number 2, which is not 12 identified, has a scheduled delivery quarter or 13 delivery month of March 2020. 14 Do you see that? 15 A. Yes. 16 Q. Aircraft number 3, which is not 17 identified, also lists March 2020 as the 18 scheduled delivery quarter or month. 19 Do you see that? 20 A. I do. 21 Q. Aircraft number 4 is not identified 22 but has a scheduled delivery quarter or month 23 of May 2020. 24 Do you see that? 25 A. I do.</p>

13 (Pages 46 - 49)

<p>1 THWAYTES - CONFIDENTIAL</p> <p>2 Q. Aircraft number 5, not identified,</p> <p>3 has a scheduled delivery quarter or month of</p> <p>4 June 2020.</p> <p>5 Do you see that?</p> <p>6 A. I do.</p> <p>7 Q. Aircraft number 6, not identified,</p> <p>8 has a scheduled delivery quarter or delivery</p> <p>9 month of August 2020.</p> <p>10 Do you see that?</p> <p>11 A. I do.</p> <p>12 Q. Does that refresh your recollection</p> <p>13 as to the original schedule for the six</p> <p>14 aircraft covered by the Framework Agreement?</p> <p>15 A. Yes, I -- we take delivery of 15, 20</p> <p>16 aircraft a year, so I don't recall the months</p> <p>17 and quarters for each aircraft going back</p> <p>18 numbers of years, but this refreshes my memory.</p> <p>19 Q. Let's take a step back generally and</p> <p>20 just talk through the basic mechanics of the</p> <p>21 purchase and sale of this aircraft MSN 10038 or</p> <p>22 any of the aircraft in a sale-leaseback</p> <p>23 transaction.</p> <p>24 So correct me if I'm wrong, but</p> <p>25 Frontier has a Purchase Agreement with Airbus,</p>	<p>Page 50</p> <p>1 THWAYTES - CONFIDENTIAL</p> <p>2 Q. More than 30?</p> <p>3 A. Yes.</p> <p>4 Q. More than 50?</p> <p>5 A. Yes.</p> <p>6 Q. More than 100?</p> <p>7 A. Yes.</p> <p>8 Q. More than 150?</p> <p>9 A. At that time, yes, more than 150.</p> <p>10 Q. More than 200?</p> <p>11 A. I don't believe so at that time, but</p> <p>12 I could be wrong. There are two order books</p> <p>13 that were under the Purchase Agreement at that</p> <p>14 time, and I don't recall how many of the first</p> <p>15 order book had been delivered by that point in</p> <p>16 time, so...</p> <p>17 MR. HOSENPUDE: Okay. I'm going to</p> <p>18 designate this testimony as confidential</p> <p>19 subject to the protective order.</p> <p>20 Q. So just to sum up, if I have it</p> <p>21 right, Mr. Thwaytes, as of early 2020, Frontier</p> <p>22 had somewhere between 150 and 200 aircraft to</p> <p>23 purchase under the Airbus Purchase Agreement;</p> <p>24 is that right?</p> <p>25 A. That's right.</p>
<p>1 THWAYTES - CONFIDENTIAL</p> <p>2 right?</p> <p>3 A. Correct.</p> <p>4 Q. And under that Purchase Agreement,</p> <p>5 Frontier was required to purchase aircraft at</p> <p>6 various times from Airbus; is that right?</p> <p>7 A. Yes.</p> <p>8 Q. How many aircraft are covered by the</p> <p>9 Airbus Purchase Agreement?</p> <p>10 A. It varies depending on how many</p> <p>11 aircraft -- at what point in time we are</p> <p>12 talking, as we are taking delivery of aircraft</p> <p>13 throughout every year and ordering additional</p> <p>14 aircraft at different points in time. So the</p> <p>15 number varies.</p> <p>16 Q. As of the beginning of 2020, how</p> <p>17 many aircraft remained to be purchased by</p> <p>18 Frontier under the Airbus Purchase Agreement?</p> <p>19 A. I don't recall the exact number at</p> <p>20 the beginning of 2020. I haven't looked at</p> <p>21 that to prepare for that question.</p> <p>22 Q. Is it more than ten?</p> <p>23 A. Yes.</p> <p>24 Q. More than 20?</p> <p>25 A. Yes.</p>	<p>Page 51</p> <p>1 THWAYTES - CONFIDENTIAL</p> <p>2 Q. Not all of those aircraft related to</p> <p>3 aircraft covered by the Framework Agreement,</p> <p>4 correct?</p> <p>5 A. You stated the Framework Agreement</p> <p>6 covered six aircraft. So, obviously, it</p> <p>7 doesn't cover all of those aircraft.</p> <p>8 Q. Did Frontier have other sale and</p> <p>9 leaseback counterparties in early 2020?</p> <p>10 A. We had sale and leaseback</p> <p>11 counterparties from aircraft that had delivered</p> <p>12 prior to that period of time, and we had sale</p> <p>13 and leaseback counterparties for aircraft that</p> <p>14 were going to deliver post that period of time</p> <p>15 at that point in time.</p> <p>16 Q. When you say post that period of</p> <p>17 time, what time period are you referring to</p> <p>18 there?</p> <p>19 A. Going forward, AMCK wasn't the only</p> <p>20 lessor that we had sale and leaseback</p> <p>21 agreements in place with for future delivery.</p> <p>22 Q. Did you have any scheduled</p> <p>23 deliveries relating to sale and leaseback</p> <p>24 transactions in 2020 other than with AMCK?</p> <p>25 A. Before -- I think originally we did,</p>

14 (Pages 50 - 53)

<p style="text-align: right;">Page 62</p> <p>1 THWAYTES - CONFIDENTIAL 2 Q. And then the lessor would pay some 3 amount to Airbus? 4 A. It's like closing a loan where it 5 all goes into title and then everybody releases 6 the payments that they need to and releases the 7 assets, and the lease is in force and the 8 aircraft is owned by AMCK and the owner 9 trustee. So generally, yes. 10 Q. And if there was a difference 11 between the amount of money Frontier was 12 required to pay Airbus and the amount of money 13 that a sale and leaseback counterparty agreed 14 to pay, then Frontier was allowed to keep that 15 difference; is that right? 16 A. Yes. 17 Q. So assuming that MSN 10038 was 18 delivered in March 2020, then Frontier was able 19 to book a profit of approximately \$4 million on 20 that transaction; is that right? 21 MR. HOSENPUD: Object to the form of 22 the question. Assumes facts not in 23 evidence. 24 You can answer. 25 A. It depends on the accounting</p>	<p style="text-align: right;">Page 64</p> <p>1 THWAYTES - CONFIDENTIAL 2 Q. Do you know if AMCK had a copy of 3 the Purchase Agreement with Airbus? 4 A. I don't know if they had one, but 5 that's a confidential document that lessors do 6 not have a copy of, that I'm aware of. 7 Q. Do you know if AMCK knew the terms 8 of Frontier's Purchase Agreement with Airbus in 9 2020? 10 A. I don't know if they knew the terms 11 because I don't know of their dealings with 12 Airbus or potentially getting the terms from 13 some source, but that's a confidential document 14 that they should not have the terms of. 15 Q. Do you have an understanding that 16 AMCK asked Frontier to ask Airbus for a delay 17 in deliveries scheduled for 2020? 18 A. Yes. 19 Q. Was AMCK involved in any discussions 20 with Airbus concerning any delivery delays in 21 2020? 22 A. I understand that AMCK was 23 independent of Frontier discussing the matter 24 with Airbus, but I was not involved in those 25 conversations and don't have knowledge of them</p>
<p style="text-align: right;">Page 63</p> <p>1 THWAYTES - CONFIDENTIAL 2 treatment at that time. Accounting treatment 3 changed for when you could book the gain for a 4 transaction whether it was up-front or over a 5 period of time. 6 I just don't recall when that 7 accounting treatment changed, whether it was 8 before or after this. 9 So I'm not certain as to what the 10 profit -- how it would be booked. There are 11 some other accounting implications that are 12 involved that don't make it that 13 straightforward and may not result in that 14 number. 15 Q. Whatever the precise number, which I 16 appreciate may depend on accounting methods, 17 there was some profit for Frontier to book in 18 connection with that transaction, correct? 19 A. That's correct. Frontier ran a RFP 20 process amongst many lessors, and AMCK competed 21 in that and won based off of the terms that 22 you're seeing here. 23 Q. AMCK was not a party to the Purchase 24 Agreement with Airbus and Frontier, correct? 25 A. That's correct.</p>	<p style="text-align: right;">Page 65</p> <p>1 THWAYTES - CONFIDENTIAL 2 besides being aware that I believe there were 3 some. 4 And if I could add to that, Airbus 5 manages its relationships with its airlines and 6 it also manages its relationships with the 7 lessors. So I assume that via that 8 relationship management they probably had 9 conversations with Airbus. 10 Q. Do you know if AMCK negotiated 11 directly with Airbus concerning any amendment 12 to the Purchase Agreement? 13 A. I am not aware of them doing that. 14 Q. You testified that you were aware 15 that AMCK had some kind of discussions with 16 Airbus in 2020. 17 What gives you that belief? 18 MR. HOSENPUD: I'm going to instruct 19 you not to answer if it is anything 20 related to attorney/client communications. 21 Separate and apart from that, you may 22 respond. 23 A. I'm trying to recall if outside of 24 conversations with counsel I was made aware of 25 communications with AMCK and Airbus, and I'm</p>

<p style="text-align: right;">Page 66</p> <p>1 THWAYTES - CONFIDENTIAL 2 not able to recall if outside of discussions 3 with counsel there were any conversations. 4 Q. Do you know when AMCK first asked 5 Frontier to seek delays in deliveries of 6 aircraft covered by the Purchase Agreement? 7 A. I don't recall the exact date, but I 8 believe it was in late March. AMCK proposed a 9 number of -- made a number of proposals to 10 Frontier in late March through April and into 11 early May regarding Frontier delaying the 12 delivery of the five aircraft remaining to be 13 delivered under the Framework Agreement. 14 I don't recall when that first 15 request was made, but I recall a first request 16 by Jane or a response by Jane to a letter that 17 I sent her requesting a deferral of rent. I 18 just don't recall if that response included a 19 request to delay the deliveries, and I don't 20 recall the date that I received that response.</p> <p>21 MR. ALEXANDER: Let's put up 22 Exhibit 7, which is a document bearing 23 Bates number FRONTIER001974.</p> <p>24 (Thwaytes Exhibit 7, E-Mail Chain, 25 Bates Stamped FRONTIER0001974 through</p>	<p style="text-align: right;">Page 68</p> <p>1 THWAYTES - CONFIDENTIAL 2 appreciate that we are receiving numerous 3 requests for assistance from our clients. As a 4 mid-sized leasing company with secured banking 5 facilities, we have some limits to our ability 6 to forego rental payments completely. Our 7 approach is to be constructive," and she goes 8 on. 9 In the third paragraph, "We would 10 like to make Frontier a proposal for assistance 11 on your rental payments." She goes on to list 12 a number of numbered bullet points. 13 "This is our proposal on the 15 14 aircraft we have leased to Frontier." 15 Take a moment to read that, but do 16 you see any requests for delivery delays 17 relating to the Airbus Purchase Agreement in 18 this March 18 e-mail? 19 A. (Document review.) No. 20 Q. And in fact point 3 says, "No 21 deferral on the remaining 5 A320neo," correct? 22 A. Yes, except I think she's referring 23 to rent deferral. 24 Q. There's no reference in any of these 25 points to a delay of deliveries in aircraft to</p>
<p style="text-align: right;">Page 67</p> <p>1 THWAYTES - CONFIDENTIAL 2 1976, marked for identification.) 3 Q. And, Mr. Thwaytes, this is an e-mail 4 from Jane O'Callaghan to you, dated March 18, 5 2020. 6 Do you see that? 7 A. I do. 8 Q. And if you scroll on to the next 9 page, to the very bottom of the next page, it 10 looks like Ms. O'Callaghan is replying to an 11 e-mail that you sent on March 16, 2020; is that 12 right? 13 A. That's right. 14 Q. And in your March 16 e-mail you say, 15 "Please see the attached concession request 16 letter." 17 Is that what you were referring to, 18 the request for deferral that you sent? 19 A. Yes. 20 Q. Ms. O'Callaghan replies on March 18 21 to say, "Dear Spencer, thank you for your 22 letter dated March 16th. As you rightly state, 23 the situation at the moment is very troubling," 24 and she goes on. 25 The next paragraph, "You may</p>	<p style="text-align: right;">Page 69</p> <p>1 THWAYTES - CONFIDENTIAL 2 be purchased from Airbus, correct? 3 A. That's correct. 4 MR. ALEXANDER: Let's look at what 5 we will call Exhibit 8, FRONTIER00198. 6 (Thwaytes Exhibit 8, E-Mail Chain, 7 Bates Stamped FRONTIER0001198 through 8 1200, marked for identification.) 9 Q. And, Mr. Thwaytes, this is a 10 March 22 e-mail from you to Jane O'Callaghan, 11 and it appears to be in response to the e-mail 12 that we just looked at. 13 Do you see that? 14 A. I do. 15 Q. And you respond in the e-mail, "Hi 16 Jane, we appreciate your understanding of this 17 grave situation," and you continue. 18 In the third paragraph of your 19 e-mail you state, "As our largest lessor, it's 20 very important that AMCK provide the requested 21 payment deferral, so I respectfully request 22 that you please reevaluate our request." 23 Do you see that? 24 A. I do. 25 Q. There is no discussion in this</p>

<p>1 THWAYTES - CONFIDENTIAL</p> <p>2 Q. And she goes on to describe a</p> <p>3 proposed delay in the delivery schedule of</p> <p>4 those remaining four SLB aircraft, right?</p> <p>5 A. Right.</p> <p>6 Q. So Ms. O'Callaghan wasn't proposing</p> <p>7 any kind of delivery delay with respect to the</p> <p>8 second aircraft, MSN 9549, correct?</p> <p>9 A. Not in this letter.</p> <p>10 Q. Was this the first communication</p> <p>11 from AMCK requesting any delay in deliveries of</p> <p>12 aircraft under the Purchase Agreement with</p> <p>13 Airbus?</p> <p>14 A. I believe so, unless there were</p> <p>15 communications between AMCK and Robert Fanning</p> <p>16 outside of this letter that I'm not aware of or</p> <p>17 don't recall.</p> <p>18 Q. But as you sit here today, you're</p> <p>19 not aware of any other requests from AMCK up to</p> <p>20 this point concerning --</p> <p>21 A. I don't recall any others prior to</p> <p>22 this.</p> <p>23 MR. ALEXANDER: Let's pull up the</p> <p>24 next exhibit, which will be Exhibit 10,</p> <p>25 FRONTIER005663.</p>	<p>Page 74</p> <p>1 THWAYTES - CONFIDENTIAL</p> <p>2 the attachment is an Amendment No. 9 to A320</p> <p>3 Family Aircraft Purchase Agreement, dated as of</p> <p>4 September 30, 2011, between Airbus S.A.S. and</p> <p>5 Frontier Airlines, Inc.</p> <p>6 Do you see that?</p> <p>7 A. I do.</p> <p>8 Q. And are you familiar with this</p> <p>9 Amendment No. 9 to the Airbus Purchase</p> <p>10 Agreement?</p> <p>11 A. I am familiar with it, generally.</p> <p>12 Q. Would you please turn to the next</p> <p>13 page -- or rather page 3 of the agreement with</p> <p>14 the Bates number FRONTIER5669.</p> <p>15 Mr. Thwaytes, is it your</p> <p>16 understanding that in this Amendment No. 9 to</p> <p>17 the Airbus Purchase Agreement, Airbus and</p> <p>18 Frontier were agreeing on a change in the</p> <p>19 delivery schedule of aircraft covered by the</p> <p>20 Purchase Agreement?</p> <p>21 A. Yes.</p> <p>22 Q. In the first numbered paragraph</p> <p>23 there, 1, delivery schedule, it states "The</p> <p>24 delivery schedule table set forth in Clause 9.1</p> <p>25 of the Agreement is deleted in its entirety and</p>
<p>1 THWAYTES - CONFIDENTIAL</p> <p>2 (Thwaytes Exhibit 10, E-Mail With</p> <p>3 Attachment, Bates Stamped FRONTIER005663</p> <p>4 through 5678, marked for identification.)</p> <p>5 MR. HOSENPUD: Could you please</p> <p>6 repeat that again, the Bates number -- I</p> <p>7 see it now.</p> <p>8 MR. ALEXANDER: Certainly. 05663,</p> <p>9 Frontier.</p> <p>10 Q. Mr. Thwaytes, this is a May 5 e-mail</p> <p>11 from Ray Bishop to Paul Lambert and copying you</p> <p>12 and others.</p> <p>13 Do you see that?</p> <p>14 A. I do.</p> <p>15 Q. Who is Ray Bishop?</p> <p>16 A. He is a contracts director at</p> <p>17 Airbus.</p> <p>18 Q. Mr. Bishop states, "Hi Paul, Spencer</p> <p>19 and Sharath, attached is a compiled version of</p> <p>20 Amendment No. 9 with the Frontier and Airbus</p> <p>21 signature appended."</p> <p>22 Do you see that?</p> <p>23 A. I do.</p> <p>24 Q. And if you flip down, or scroll down</p> <p>25 to the page with Bates number FRONTIER005667,</p>	<p>Page 75</p> <p>1 THWAYTES - CONFIDENTIAL</p> <p>2 replaced with the delivery schedule table</p> <p>3 attached hereto as Appendix A."</p> <p>4 Do you see that?</p> <p>5 A. I do.</p> <p>6 Q. Did the original Purchase Agreement</p> <p>7 with Airbus have a delivery schedule in it?</p> <p>8 A. The delivery schedule in the</p> <p>9 Purchase Agreement -- the original Purchase</p> <p>10 Agreement did and then has been amended from</p> <p>11 time to time.</p> <p>12 Q. How many times has that delivery</p> <p>13 schedule been amended?</p> <p>14 A. I don't -- I don't recall how many</p> <p>15 times it's been amended.</p> <p>16 Q. This document that we are looking at</p> <p>17 is Amendment No. 9 to the Purchase Agreement.</p> <p>18 Is it fair to assume that there were</p> <p>19 eight amendments to the delivery schedule?</p> <p>20 A. No.</p> <p>21 MR. HOSENPUD: Excuse me. Object to</p> <p>22 the form of the question, assumes facts</p> <p>23 not in evidence.</p> <p>24 A. No, amendments could be for other</p> <p>25 reasons than changing the delivery schedule.</p>

20 (Pages 74 - 77)

<p>1 THWAYTES - CONFIDENTIAL 2 So I believe those are AMCK 3 aircraft, but I'm not able to tie the two 4 together because there is no unique identifier 5 that is the same in the two agreements. 6 Q. So let's go back to Exhibit 10, 7 which we were just looking at, which is 8 Amendment No. 9 to the Purchase Agreement. 9 And if we look at, again, row 52, 10 which was the aircraft we were just talking 11 about, that has a scheduled delivery of 12 July 2020. 13 Do you know which, if any, of the 14 aircraft listed in this table are aircraft 15 covered by the Framework Agreement? 16 A. I believe aircraft rank 54, that was 17 delivered in March 2020. Without being able to 18 tie the agreements together, I am basing this 19 off of my recollection of the dates that the 20 aircraft under the Framework Agreement were 21 scheduled to be delivered after we amended the 22 Airbus Purchase Agreement. 23 So based off of that, aircraft rank 24 52, 53, 55 and 57, and I'm not sure if 59 or 60 25 because I don't recall after the amendment</p>	<p>Page 82</p> <p>1 THWAYTES - CONFIDENTIAL 2 delivery months were possible relative to their 3 request for delays in delivery. 4 Q. Is that correspondence you're 5 referring to -- did that take place prior to 6 this amendment actually being reached? 7 A. I don't recall. I don't recall if 8 it was prior or subsequent to. There was -- so 9 there was many -- there was a lot of 10 correspondence between us and AMCK from the 11 middle of -- middle -- second half of March 12 through, call it the first half of May 13 regarding this situation, and particularly 14 related to delaying aircraft. And I just don't 15 recall when we initially told them what we 16 thought we could achieve based off of our 17 negotiations with Airbus. 18 Q. But you don't recall, as you sit 19 here today, when, if ever, you told AMCK what 20 Frontier actually did achieve in its amendment 21 with Airbus, correct? 22 A. We don't ever tell anybody what we 23 achieve in our amendments with Airbus. That's 24 confidential. 25 Q. Do you know if anyone else at</p>
<p>1 THWAYTES - CONFIDENTIAL 2 which aircraft were moved out of the -- 3 originally, when we amended it out of 2020, if 4 they were the Accipiter aircraft or not after 5 the amendment was completed. I don't recall 6 after that because it's easy to deduce the July 7 and the September aircraft, but not after that 8 without being able to tie the aircraft between 9 the agreements. 10 Q. Did you ever tell AMCK that you had 11 reached this Amendment No. 9 with Airbus? 12 A. I don't know if we explicitly told 13 AMCK that we had reached an agreement number 14 9 -- or Amendment No. 9 with Airbus. 15 Q. If you go back to the first page of 16 this document, it's a May 5 e-mail from Ray 17 Bishop. 18 Do you recall when, if at all, you 19 told AMCK that you had reached any amendment 20 with Airbus on delivery schedules regardless of 21 calling it Amendment No. 9? 22 A. I'm not sure if we ever told AMCK 23 that we had reached an agreement on an 24 amendment with Airbus, but I do recall 25 corresponding with AMCK about what delay in</p>	<p>Page 83</p> <p>1 THWAYTES - CONFIDENTIAL 2 Frontier told anyone at AMCK that this 3 amendment had been reached with Airbus? 4 A. I am not aware of all of the 5 conversations that may have occurred or text 6 messages that may have been exchanged outside 7 of my purview. 8 So I am not aware, but I am also 9 potentially not aware of correspondence that 10 may have taken place. 11 MR. ALEXANDER: David, I'm happy to 12 keep going, but if you all want to break 13 we can take one, otherwise I'm happy to 14 take one. 15 MR. HOSENPUD: Why don't we do five? 16 MR. ALEXANDER: Sure. Off the 17 record. 18 (Recess taken.) 19 BY MR. ALEXANDER: 20 Q. All right. Mr. Thwaytes, we have 21 been looking at Amendment No. 9 to the Purchase 22 Agreement between Frontier and Airbus. 23 That amendment was the result of 24 negotiations between Frontier and Airbus, 25 right?</p>

22 (Pages 82 - 85)

<p>1 THWAYTES - CONFIDENTIAL 2 A. Correct. 3 Q. Was AMCK a party to those 4 negotiations? 5 A. No, as far as I'm aware, unless they 6 were independent of Frontier. 7 Q. When did those negotiations 8 concerning the Airbus Purchase Agreement begin? 9 A. During this very fluid time, we're 10 having conversations with most of our major 11 suppliers frequently. So it's difficult to say 12 when those negotiations began, but if I had to 13 pick a time frame, I would say the beginning of 14 April.</p> <p>15 MR. ALEXANDER: Let's look at the 16 next Exhibit 11, which is FRONTIER004009. 17 (Thwaytes Exhibit 11, E-Mail With 18 Attachment, Bates Stamped FRONTIER004009 19 through 4010, marked for identification.)</p> <p>20 Q. Mr. Thwaytes, this is an April 2 21 e-mail from you to Matthew Saks and Ray Bishop. 22 Do you see that? 23 A. I do. 24 Q. Who is Matthew Saks? 25 A. He was the sales director at the</p>	<p>Page 86</p> <p>1 THWAYTES - CONFIDENTIAL 2 Who else from the Frontier side was 3 involved in the negotiations with Airbus? 4 A. Jimmy Dempsey, Sharath Sashikumar 5 Bindu. Besides counsel, those would be the 6 main people involved. 7 Q. So looking at this Exhibit 11, you 8 state in the e-mail, "Mat and Ray, the 9 indefinite delay in delivering aircraft MSN 10 9549 (see notice attached)." 11 Do you see that? 12 A. I do. 13 Q. What are you referring to there? 14 A. Without seeing that notice and what 15 is in that notice, which would be helpful to 16 determine exactly what I'm referencing, I am 17 going to assume that the notice referenced a 18 delay of that aircraft that was for an 19 indefinite period of time, based off of what 20 I've written here, related to that "see notice 21 attached," and the indefinite period of the 22 delay notice was problematic for us from a cash 23 flow perspective. 24 Q. Why was it problematic from a cash 25 flow perspective?</p>
<p>1 THWAYTES - CONFIDENTIAL 2 time at Airbus. 3 Q. You testified a moment ago that 4 there were negotiations between Frontier and 5 Airbus concerning an amendment to the Purchase 6 Agreement. 7 What was your involvement in those 8 negotiations? 9 A. I'm trying to think how to 10 categorize involvement or describe involvement, 11 but directly involved. 12 Q. So you were involved in discussions 13 with Airbus, correct? 14 A. Correct. 15 Q. Did you play any particular role or 16 deal with particular subject areas or were you 17 generally involved in the discussions? 18 A. I would say generally involved in 19 the discussions. Some others on our team may 20 have been specifically involved in doing 21 calculations and our counsel involved in -- in 22 the legal aspects of things as well. So more 23 generally involved. 24 Q. So you were generally involved. You 25 referenced your counsel.</p>	<p>Page 87</p> <p>1 THWAYTES - CONFIDENTIAL 2 A. We have PDP payments with Airbus 3 that we receive back when aircraft are 4 delivered. We have money borrowed under a 5 credit facility to finance a portion of those 6 PDP payments as well as our equity, and that 7 is -- that facility is paid down by the amount 8 that they have outstanding on an aircraft when 9 the aircraft is delivered. And we, as we saw 10 in a previous document, have a gain on sale of 11 aircraft, which is another source of cash. 12 So there's three main reasons why, 13 from a cash flow perspective, it's problematic. 14 Q. Why don't we look at the attached 15 notice, which is the next page of this 16 document, and this is a notice from Airbus. 17 "Subject: Postponement of the Delivery 18 Schedule." 19 Do you see that? 20 A. I do. 21 Q. And in the second paragraph, it 22 states, "We regret to inform you that a damaged 23 bracket was discovered in the right hand wing 24 on the aircraft." 25 Do you see that?</p>

23 (Pages 86 - 89)

<p>1 THWAYTES - CONFIDENTIAL</p> <p>2 A. I do.</p> <p>3 Q. So was there -- there was a</p> <p>4 technical problem with MSN 9549; is that right?</p> <p>5 A. According to this document, there</p> <p>6 was.</p> <p>7 Q. When Frontier began discussing</p> <p>8 potential changes in the delivery schedule in</p> <p>9 the spring of 2020 with Airbus, did Frontier</p> <p>10 ask to reschedule all deliveries or only some</p> <p>11 deliveries?</p> <p>12 A. At that time, I think we have</p> <p>13 concluded the assumption that we had 150 to 200</p> <p>14 deliveries with Airbus. The conversation was</p> <p>15 not to delay all of the deliveries, all of</p> <p>16 those 150 to 200 aircraft.</p> <p>17 Q. Was there some subset that you chose</p> <p>18 to discuss a delivery delay regarding?</p> <p>19 A. Near-term aircraft and near term</p> <p>20 over -- near-term aircraft.</p> <p>21 Q. Did you discuss with Airbus only</p> <p>22 changing the delivery schedule for aircraft</p> <p>23 covered by the Framework Agreement?</p> <p>24 A. No, outside of -- in addition to</p> <p>25 that.</p>	<p>Page 90</p> <p>1 THWAYTES - CONFIDENTIAL</p> <p>2 change in the delivery schedule for?</p> <p>3 A. Not -- only particular aircraft in</p> <p>4 relation to periods of time. So we did not</p> <p>5 pick and choose aircraft within a period of</p> <p>6 time. We just chose the aircraft that were in</p> <p>7 a period of time.</p> <p>8 Q. Let's go back to the first page of</p> <p>9 this Exhibit 11.</p> <p>10 So as we spoke about in the first</p> <p>11 paragraph of this e-mail, you reference the</p> <p>12 indefinite delay in delivering aircraft MSN</p> <p>13 9549.</p> <p>14 And just to confirm, that delay was</p> <p>15 not the result of any request for a change in</p> <p>16 schedule by AMCK, correct?</p> <p>17 MR. HOSENPUD: Object to the form of</p> <p>18 the question, assumes facts not in</p> <p>19 evidence, misstates the document.</p> <p>20 You can answer.</p> <p>21 A. Based off of the notice, the delay</p> <p>22 was because of a manufacturing issue.</p> <p>23 Q. In the second paragraph, you say,</p> <p>24 "We received verbal notice this afternoon that</p> <p>25 our financier is uncomfortable funding aircraft</p>
<p>1 THWAYTES - CONFIDENTIAL</p> <p>2 Q. Just to make sure I understand. In</p> <p>3 addition to the aircraft covered by the</p> <p>4 Framework Agreement, Frontier and Airbus were</p> <p>5 discussing a change in the delivery schedule</p> <p>6 for other aircraft not covered by the Framework</p> <p>7 Agreement, correct?</p> <p>8 A. That's right.</p> <p>9 Q. How many other aircraft not covered</p> <p>10 by the Framework Agreement was Frontier seeking</p> <p>11 a delivery change for?</p> <p>12 A. I don't -- I don't recall how many.</p> <p>13 Q. Was it more than 50?</p> <p>14 A. It's hard to -- it's hard to</p> <p>15 determine how many because change in delivery</p> <p>16 schedule for some aircraft can have a cascading</p> <p>17 effect that causes a change in the delivery</p> <p>18 schedule for other aircraft.</p> <p>19 So I think that the discussions for</p> <p>20 aircraft delivering in 2020 and into 2021, I</p> <p>21 believe it's that period of time, but the</p> <p>22 impact of that it appeared to be more because</p> <p>23 it kind of cascades the delivery stream.</p> <p>24 Q. Understood. Were there particular</p> <p>25 aircraft deliveries that Frontier requested a</p>	<p>Page 91</p> <p>1 THWAYTES - CONFIDENTIAL</p> <p>2 deliveries in 2Q 2020, so we anticipate that</p> <p>3 Airbus will work with us to manage the timing</p> <p>4 of upcoming aircraft deliveries."</p> <p>5 Do you see that?</p> <p>6 A. I do.</p> <p>7 Q. Is the financier you're referring to</p> <p>8 AMCK?</p> <p>9 A. Yes, I believe so.</p> <p>10 Q. Did you get a response to this</p> <p>11 e-mail?</p> <p>12 A. I don't -- I don't recall if I did.</p> <p>13 Q. Did anyone at Airbus threaten you</p> <p>14 with a default under the Purchase Agreement?</p> <p>15 A. During this time, when we were in</p> <p>16 discussions with Airbus about deliveries of</p> <p>17 aircraft and about making PDP payments, we were</p> <p>18 told by Airbus numerous times that if we did</p> <p>19 not fulfill our obligations that we risk being</p> <p>20 put into default.</p> <p>21 Q. Who at Airbus said that?</p> <p>22 A. Matt Saks to me. I'm aware of other</p> <p>23 correspondence with others that I can't point</p> <p>24 to but are generally aware of.</p> <p>25 Q. When Matt Saks told you, was that</p>

24 (Pages 90 - 93)

<p style="text-align: right;">Page 94</p> <p>1 THWAYTES - CONFIDENTIAL 2 over the phone? 3 A. That was. 4 Q. You referred to correspondence with 5 others. 6 Do you know if that correspondence 7 was written correspondence? 8 A. I don't know if it was written or 9 verbal. I don't know if it was written or 10 verbal. 11 But we were made very aware by 12 Airbus that if we didn't fulfill our 13 obligations that there was a risk of default 14 and that they were taking that very seriously. 15 Q. In the first paragraph there, you 16 refer to "deferring the scheduled April PDP 17 payment" in the middle of that paragraph. 18 Do you see that? 19 A. I do. 20 Q. Was that part of the discussions 21 regarding a change in delivery schedule? 22 A. No, that was in relation to this 23 aircraft being -- delivery being delayed and 24 the cash inflow that we would have received 25 from this aircraft not happening because of the</p>	<p style="text-align: right;">Page 96</p> <p>1 THWAYTES - CONFIDENTIAL 2 9549, all of the PDP payments have been made on 3 that aircraft. We wouldn't delay the PDP 4 payments on that aircraft. 5 Aircraft that are delivering further 6 out in the future that still have PDP payments 7 due on that aircraft, it would. If you delay 8 those aircraft, it would delay a PDP payment 9 for that aircraft. 10 MR. HOSENPUD: Continue to lean in 11 because you're dropping slightly at the 12 end of your statements. 13 THE WITNESS: Will do. 14 MR. ALEXANDER: Let's look at 15 Exhibit 12, which is FRONTIER003978. 16 (Thwaytes Exhibit 12, E-Mail Chain, 17 Bates Stamped FRONTIER0003978 through 18 3985, marked for identification.) 19 Q. All right. Mr. Thwaytes, this is an 20 e-mail from you to Ashok Shah, Thomas Frey and 21 Sharath Sashikumar Bindu on April 15, 2020. 22 Do you see that? 23 A. I do. 24 Q. And this is the top e-mail on a 25 chain, but if you go over to the next page, you</p>
<p style="text-align: right;">Page 95</p> <p>1 THWAYTES - CONFIDENTIAL 2 delay. 3 So in order to negate that negative 4 impact, something that Airbus could do would be 5 to delay the -- or defer the scheduled April 6 PDP payment, so that we were cash neutral or -- 7 I don't remember if it would be cash neutral, 8 but it would make up for some of the 9 difference. 10 Q. The April PDP payment you're 11 referring to there, would that be a PDP payment 12 relating to MSN 9549 or some other aircraft -- 13 A. No, PDP payments at certain points 14 in time are for a number of MSNs that are 15 delivering at either -- since the contract was 16 signed or from a point in time until the 17 aircraft will be delivered. 18 So it could be for one aircraft or 19 usually for a number of aircraft at once. 20 Q. Would delaying a delivery of an 21 aircraft also defer Frontier's PDP payment 22 obligations relating to that aircraft? 23 A. No. Well, let me clarify. 24 If an aircraft is going to be 25 delivered in a short period of time like MSN</p>	<p style="text-align: right;">Page 97</p> <p>1 THWAYTES - CONFIDENTIAL 2 can see that there is a back and forth 3 discussion between Frontier folks and Airbus; 4 is that right? 5 A. That's right. 6 Q. In the second page of the document 7 Bates number 3979, at the top of the page, 8 there's an e-mail from Christopher Jones on 9 April 11, 2020, to Jimmy Dempsey and others. 10 Do you see that? 11 A. I do. 12 Q. Who is Christopher Jones? 13 A. He is -- I believe at the time was 14 Matt Saks' boss. So the SVP of sales or 15 customers or something for the Americas at 16 Airbus. 17 Q. Mr. Jones says, "Jimmy. Thanks for 18 taking the time to chat this morning. In 19 response to your request that Airbus consider 20 delaying a number of your 2020 deliveries to 21 facilitate third-party financing with AMCK, 22 Airbus could contemplate the following starting 23 in 2020." 24 Do you see that? 25 A. I do.</p>

25 (Pages 94 - 97)

<p>1 THWAYTES - CONFIDENTIAL</p> <p>2 Q. And then below that there are a</p> <p>3 couple charts.</p> <p>4 Do you see that?</p> <p>5 A. I do.</p> <p>6 Q. In the second chart with the</p> <p>7 introductory language, "In terms of delivery</p> <p>8 months, this would translate to."</p> <p>9 Do you see that?</p> <p>10 A. I do.</p> <p>11 Q. In the left column of the chart is</p> <p>12 "type," all of which is A320. In the next</p> <p>13 column, "CACID," there are a number of entries.</p> <p>14 The next column is "MSN," which lists certain</p> <p>15 MSN numbers, 9549, 10031, 10089, 10119, 10298</p> <p>16 and 10327.</p> <p>17 Did I read those correctly?</p> <p>18 A. You did.</p> <p>19 Q. And then there are four rows that</p> <p>20 don't have any MSN listed for them; is that</p> <p>21 right?</p> <p>22 A. That's right.</p> <p>23 Q. In the next column to the right, it</p> <p>24 shows a planned delivery, and it lists various</p> <p>25 dates in that column for each of the MSN and</p>	<p>Page 98</p> <p>1 THWAYTES - CONFIDENTIAL</p> <p>2 fourth and then I assume the fifth.</p> <p>3 I just don't remember off the top if</p> <p>4 there was any -- there was another lessor</p> <p>5 delivering aircraft in 2020. I just don't</p> <p>6 recall if AMCK's were all in a row or if there</p> <p>7 was -- if one was delivering sooner than the</p> <p>8 other.</p> <p>9 So I'm not sure on the 10298 and</p> <p>10 10327, I believe. And then that</p> <p>11 September 2020, that would also potentially be</p> <p>12 one of the AMCK aircraft because it looked like</p> <p>13 it was planned to be delivered before those</p> <p>14 other two.</p> <p>15 Again, it's difficult to recall and</p> <p>16 then I can't cross-reference the MSNs with what</p> <p>17 you're showing me.</p> <p>18 Q. What would you need -- strike that.</p> <p>19 Where would you look if you wanted</p> <p>20 to determine which aircraft subject to the</p> <p>21 Framework Agreement -- strike that.</p> <p>22 A. I think in the Framework Agreement</p> <p>23 it states that what the expected delivery month</p> <p>24 was and that should, I assume, align with this</p> <p>25 planned delivery month here. That may be a</p>
<p>1 THWAYTES - CONFIDENTIAL</p> <p>2 the unidentified aircraft in the column to the</p> <p>3 left, right?</p> <p>4 A. Yes.</p> <p>5 Q. What does planned delivery mean?</p> <p>6 A. I believe that means the scheduled</p> <p>7 delivery month that Airbus had notified the</p> <p>8 aircraft would be delivered in prior -- well,</p> <p>9 as it stood at this point in time.</p> <p>10 Q. In the column to the right, it shows</p> <p>11 a revised delivery.</p> <p>12 Do you see that?</p> <p>13 A. I do.</p> <p>14 Q. And what do you understand that</p> <p>15 column to represent?</p> <p>16 A. The proposal from Airbus to change</p> <p>17 the delivery month of the aircraft.</p> <p>18 Q. This chart has ten aircraft listed.</p> <p>19 Do you agree?</p> <p>20 A. Yes.</p> <p>21 Q. Which of those aircraft are aircraft</p> <p>22 covered by the Framework Agreement with AMCK?</p> <p>23 A. Without being able to</p> <p>24 cross-reference the MSNs to another document,</p> <p>25 unfortunately, I believe the first three, the</p>	<p>Page 99</p> <p>1 THWAYTES - CONFIDENTIAL</p> <p>2 good way to cross-reference the two.</p> <p>3 Q. Well, why don't we put back up</p> <p>4 Exhibit 5, which is AMCK -- there we go.</p> <p>5 This is Schedule 1 to the Framework</p> <p>6 Agreement, which we looked at previously in</p> <p>7 Exhibit 5, and this shows six aircraft and</p> <p>8 scheduled delivery months for each.</p> <p>9 Do you see that?</p> <p>10 A. I can see that.</p> <p>11 Q. Does that help you to assess which</p> <p>12 aircraft --</p> <p>13 MR. HOSENPUDE: Wait, wait, wait.</p> <p>14 Let him finish your question before you</p> <p>15 answer. Thank you.</p> <p>16 THE WITNESS: Sure.</p> <p>17 Q. Does that help you to assess which</p> <p>18 aircraft in the April communication from Airbus</p> <p>19 is covered by the Framework Agreement?</p> <p>20 A. It doesn't because I believe that</p> <p>21 between when the Framework Agreement was put in</p> <p>22 place and that schedule that you're showing me,</p> <p>23 Airbus had already issued some delivery delay</p> <p>24 notices that changed the scheduled delivery</p> <p>25 month for these aircraft from what you're</p>

<p style="text-align: right;">Page 102</p> <p>1 THWAYTES - CONFIDENTIAL 2 seeing here to what you're seeing in that 3 e-mail from Chris Jones under the column 4 "Planned Delivery Month," I believe is what it 5 said.</p> <p>6 Q. Did Frontier ever provide AMCK with 7 those delivery notices from Airbus that you 8 referenced?</p> <p>9 A. Those are -- I don't believe we 10 provide those delivery notices to the lessors. 11 We do notify the lessors of delivery delays. 12 Those are -- that's correspondence that's 13 between Frontier and Airbus.</p> <p>14 Q. Did anyone at Frontier ever notify 15 AMCK about a delivery delay regarding MSN 9549?</p> <p>16 A. I believe so, yes.</p> <p>17 Q. When?</p> <p>18 A. I don't know when, but I assume 19 after the delivery -- I'm not sure when, but I 20 recall correspondence where AMCK was relieved 21 that the aircraft had been delayed a month 22 enabling them to provide us a rent deferral for 23 a longer period of time while we continued to 24 work with Airbus to meet the request that AMCK 25 was making for further delaying some of the</p>	<p style="text-align: right;">Page 104</p> <p>1 THWAYTES - CONFIDENTIAL 2 identified with a planned delivery of 3 April 2020, that's not an aircraft that AMCK 4 had requested Frontier postpone delivery of, 5 right?</p> <p>6 A. I'm not sure if they requested or 7 not. I believe they requested a delay in -- I 8 don't recall if that was included in the 9 request of delaying the delivery date.</p> <p>10 Q. There were -- at this point in 11 April 2020, there were only five aircraft 12 remaining to be delivered pursuant to the 13 Framework Agreement, correct?</p> <p>14 A. Correct.</p> <p>15 Q. So at least five of the aircraft in 16 this chart reflecting a proposed revised 17 delivery date were not related to aircraft 18 covered by the Framework Agreement, correct?</p> <p>19 A. That's correct.</p> <p>20 Q. Why was Frontier proposing to change 21 those delivery dates?</p> <p>22 A. To -- because the belief that -- 23 well, we were trying -- this was a very fluid 24 time trying to understand capacity when a 25 recovery would take place and our -- at the</p>
<p style="text-align: right;">Page 103</p> <p>1 THWAYTES - CONFIDENTIAL 2 other aircraft -- well, all of the aircraft 3 left under the Framework Agreement.</p> <p>4 Q. My question was a bit different, 5 Mr. Thwaytes.</p> <p>6 It was just are you aware of any 7 communication by Frontier to AMCK providing 8 notice that Airbus had delayed the delivery of 9 MSN 9549?</p> <p>10 A. I don't recall when or who provided 11 that correspondence, but in -- but there was 12 probably correspondence between Frontier and 13 AMCK at the Robert or Sharath level notifying 14 them of changes in delivery schedules.</p> <p>15 Q. But as you sit here today, you, 16 yourself, don't recall any such communication 17 that you were involved in, correct?</p> <p>18 A. No, I'm not usually involved in 19 those types of communications.</p> <p>20 Q. Going back to the chart here, we 21 have the ten aircraft with various planned 22 delivery dates and then ten revised delivery 23 dates for those ten aircraft; is that right?</p> <p>24 A. Yes.</p> <p>25 Q. MSN 9549, the first aircraft</p>	<p style="text-align: right;">Page 105</p> <p>1 THWAYTES - CONFIDENTIAL 2 time we believed that it was prudent to push 3 out the delivery of the aircraft so that we 4 didn't have too much capacity later in the year 5 and then also so that we could alleviate some 6 of the PDP payments that were required on 7 aircraft leading up to their delivery, if there 8 was still enough time between this period of 9 time and when that aircraft would be delivered 10 to preserve cash.</p> <p>11 Q. Did any other lessors ask Frontier 12 to seek a delay in delivery schedules with 13 Airbus?</p> <p>14 A. No.</p> <p>15 Q. Let's turn back to the first page of 16 this document.</p> <p>17 At the bottom of the first page is 18 an e-mail from Mr. Dempsey dated April 14, 19 2020, to Christopher Jones and others.</p> <p>20 And he says, "Chris/Robert, can you 21 copy Spencer and Sharath in the response so we 22 can analyze the changes. They are copied 23 above."</p> <p>24 Do you see that?</p> <p>25 A. I do.</p>

27 (Pages 102 - 105)

<p style="text-align: right;">Page 106</p> <p>1 THWAYTES - CONFIDENTIAL 2 Q. Do you recall analyzing changes to 3 the delivery schedule proposed by Airbus? 4 A. Yeah, I don't recall the particulars 5 of it, but I recall doing this -- or being 6 involved in this analysis. 7 Q. What was the analysis you were 8 involved in? 9 A. Looking at what the PDP payment 10 requirement would be based off of these 11 changes, looking at what the cash flows would 12 be in total based off of these changes 13 including the changes in PDP requirements, 14 looking at capacity. 15 So how many aircraft and available 16 seat miles we had to fly -- or available to fly 17 over the delivery stream currently and then 18 after these proposed changes. 19 So basically looking at the current 20 state and then the revised state and the 21 changes in cash flow and the changes in 22 capacity. 23 Q. In the e-mail above that on the 24 page, Mr. Bishop replies to Mr. Dempsey and 25 others and you stating, "Jimmy, further to your</p>	<p style="text-align: right;">Page 108</p> <p>1 THWAYTES - CONFIDENTIAL 2 delivered because of the resulting PDP 3 obligations that would result from the changes 4 in when the aircraft would be delivered. 5 Q. I asked you a moment ago whether any 6 other lessors asked Frontier to seek a change 7 in delivery schedule, and I believe you 8 testified no. I have a follow-up question on 9 that. 10 Did any sale and leaseback 11 counterparties to Frontier ask for Frontier to 12 delay any deliveries scheduled with Airbus? 13 A. No, not that I'm aware of, no. 14 Q. How did Frontier choose -- strike 15 that. 16 Other than the aircraft subject to 17 the Framework Agreement, how did Frontier 18 choose what other aircraft to seek delivery 19 changes for? 20 A. Based off of the impact on PDP 21 payments and impact on cash flows from the 22 delivery of the aircraft. So the total cash 23 flow impact, and then also looking at capacity. 24 Really a cash flow exercise and then a capacity 25 exercise.</p>
<p style="text-align: right;">Page 107</p> <p>1 THWAYTES - CONFIDENTIAL 2 recent discussions with Chris and Robert, 3 please find attached a delivery schedule 4 scenario for Frontier review. Please let us 5 know if you have time this afternoon to discuss 6 and we can set up a call, when we can share our 7 preliminary estimate the attached delivery 8 schedule change would have on Frontier's 2020 9 PDP obligations." 10 Do you see that? 11 A. I do. 12 Q. Was this proposed revised schedule 13 related to a discussion that you were having 14 regarding Frontier's PDP obligations? 15 A. This looks like it was a response to 16 a discussion that Jimmy had with Robert -- or 17 with Chris and Robert. 18 Q. Do you recall any changes to the 19 delivery schedule being discussed during these 20 negotiations as a result of your analysis of 21 PDP obligations? 22 A. We probably gave them feedback on 23 the aircraft delivering in the second half of 24 2020 into the first half of 2021 on adjustments 25 to those aircraft and when they were being</p>	<p style="text-align: right;">Page 109</p> <p>1 THWAYTES - CONFIDENTIAL 2 Q. In the e-mail at the top of the 3 page, you reply to Ashok Shah and others. 4 First of all, who is Ashok Shah? 5 A. He was VP of finance at the time. 6 Q. At Frontier? 7 A. That's right. 8 Q. And who is Thomas Frey? 9 A. He was the senior manager on the 10 strategic sourcing team, who had just moved 11 over from being a senior manager on Ashok's 12 finance team. And in his role there, he was 13 responsible for managing the fleet plan model. 14 Q. In your e-mail, you state, "Looping 15 Thomas into this to assist needs be as we need 16 to run through the FP&A fleet plan." 17 Do you see that? 18 A. Yep. 19 Q. What did you mean by that? 20 A. So our financial planning and 21 analysis team that Ashok was responsible for 22 was responsible for keeping our fleet plan, 23 which includes a forecast of the aircraft to be 24 delivered and the resulting cash flows that 25 come out of it and capacity that comes out of</p>

28 (Pages 106 - 109)

<p style="text-align: right;">Page 110</p> <p>1 THWAYTES - CONFIDENTIAL 2 it. 3 Q. Do you recall discussing the result 4 of running this through the FP&A fleet plan? 5 A. I don't recall any particular 6 discussion, but I'm sure we had discussions 7 around the result of this. 8 Q. Do you recall any general 9 discussions? 10 A. I don't recall any specific things 11 discussed, but generally, I'm sure we discussed 12 this and -- and reviewed the output of it and 13 made recommendations accordingly. 14 Q. You say that you're sure you did 15 that but just don't recall what you actually 16 did; is that fair to say? 17 A. Yeah, that's fair to say. 18 Q. Let's turn to the attachment to this 19 document with the Bates 3981. And just to 20 place it in context, this is the attachment to 21 the Ray Bishop e-mail on April 15, which it 22 looks like you included in your reply to your 23 Frontier team. 24 If you look here at the page 3981, 25 you see a chart that shows rank, CACID, type</p>	<p style="text-align: right;">Page 112</p> <p>1 THWAYTES - CONFIDENTIAL 2 well, 54 was I believe that, but it doesn't say 3 the date it was delivered. I'm assuming that 4 that's that March aircraft that was the first 5 aircraft delivered under the agreement -- 6 Q. You cut out there, Mr. Thwaytes. 7 A. I said that the one that says 8 delivered doesn't say when it was delivered, 9 but I'm assuming that that's the March aircraft 10 that was the first aircraft delivered under the 11 Framework Agreement. 12 55 and 56. And then I don't know if 13 57 or 58, as they are both June deliveries, one 14 of those two. 15 Q. So there were other aircraft 16 scheduled to be delivered in the spring 2020 17 time period that were not covered by the 18 Framework Agreement; is that correct? 19 A. Yes, I believe so, like one. 20 Q. And Frontier was requesting a change 21 in the delivery schedule for that aircraft as 22 well, right? 23 A. So there were two things going on. 24 One was Frontier was making requests. 25 Second was Airbus was shutting down</p>
<p style="text-align: right;">Page 111</p> <p>1 THWAYTES - CONFIDENTIAL 2 and then delivery dates in purple color for the 3 delivery dates as of Amendment 8 and yellow 4 color for delivery dates as of -- or the new 5 delivery schedule. 6 A. I see that. 7 Q. In the purple column, "Current as of 8 Amendment 8," what does SDM/SDQ mean? 9 A. Scheduled delivery month, scheduled 10 delivery quarter. 11 Q. As you look at this chart -- strike 12 that. 13 In the column on the right, it shows 14 the new delivery schedule. If we look at rank 15 52, the first row in the chart, it shows a 16 March 2020 delivery date as of Amendment 8 and 17 a June 2020 new delivery schedule date. 18 Do you see that? 19 A. I do. 20 Q. Can you tell by looking at this 21 chart which, if any, of these aircraft were 22 covered by the Framework Agreement? 23 A. 52 and 53. Again, it's hard to tie 24 directly because of not having the same unique 25 identifier for each, but 52 and 53. I think --</p>	<p style="text-align: right;">Page 113</p> <p>1 THWAYTES - CONFIDENTIAL 2 its delivery, they call them their fall, for a 3 period of time because of the height of COVID 4 into -- I forget if they shut it down for all 5 of April, something like that. 6 So there were some complications as 7 well as a result of Airbus and Airbus needing 8 to delay the delivery of some aircraft in order 9 to manage their industrial process given that 10 they had to stop people from coming to work 11 because of COVID. 12 Q. My question was, did Frontier 13 request a change in delivery schedule for 14 aircraft during the spring of 2020 other than 15 aircraft covered by the Framework Agreement? 16 A. I don't believe Frontier requested a 17 change in the delivery schedule for aircraft in 18 the spring of 2020 other than aircraft in the 19 Framework Agreement, but Airbus may have 20 requested that because they needed to -- they 21 were unable to complete manufacturing the 22 aircraft due to COVID restraints on their 23 manufacturing facility. 24 I think I mentioned earlier that 25 Frontier was focused on delaying aircraft in</p>

29 (Pages 110 - 113)

<p>1 THWAYTES - CONFIDENTIAL 2 the second half of 2020 and into 2021 to 3 provide cash flow relief and to manage 4 capacity.</p> <p>5 Q. So just looking at this page, there 6 looks to be roughly 20 aircraft identified. 7 All of those involve change in 8 delivery dates in this proposal; is that right?</p> <p>9 A. (Document review.)</p> <p>10 I'm just looking through to make 11 sure that that's accurate for all of them, but 12 yes, it looks accurate for all of them.</p> <p>13 Q. And no more than five of those 14 still-to-be-delivered aircraft related to the 15 Framework Agreement, correct?</p> <p>16 A. That's -- well, there is a sixth, 17 which I believe is that "delivered" one there. 18 So I think six total of these were related to 19 the Framework Agreement.</p> <p>20 Q. All right.</p> <p>21 MR. ALEXANDER: Let's pull up 22 FRONTIER009068, which I believe will be 23 Exhibit 13.</p> <p>24 (Thwaytes Exhibit 13, E-Mail Chain, 25 Bates Stamped FRONTIER009068 through 9076,</p>	<p>Page 114</p> <p>1 THWAYTES - CONFIDENTIAL 2 And you see, similar to the charts 3 that we have looked at, this shows a list of 4 different aircraft delivery dates by Airbus 5 Rank, CACID, Aircraft Type, Original SDM, 6 Original Year, Revised (From Airbus). Then in 7 columns I and J, (From Airbus V2) and in column 8 L, Revised (F9 Counter).</p> <p>9 Can you tell, from looking at this 10 chart, which of the aircraft reflected here are 11 covered by the Framework Agreement?</p> <p>12 A. This chart looks similar to the 13 chart we looked at recently with that delivered 14 aircraft noted as the third one.</p> <p>15 So based off of that, I would say 16 the first five aircraft and then one of the 17 June aircraft, probably the first one, but, 18 again, I can't tie that directly based off of 19 the information here.</p> <p>20 Q. You understand that the column from 21 Airbus in yellow reflects Airbus' latest 22 proposal for the delivery schedule, right?</p> <p>23 A. Right.</p> <p>24 Q. And then the column to the right of 25 that, Revised (F9 Counter), you understand that</p>
<p>1 THWAYTES - CONFIDENTIAL 2 marked for identification.)</p> <p>3 Q. Mr. Thwaytes, this is an April 20, 4 2020, e-mail from Jimmy Dempsey to Ray Bishop, 5 you and others.</p> <p>6 Do you see that?</p> <p>7 A. I do.</p> <p>8 Q. And in this top e-mail Mr. Dempsey 9 says, "Please see attached the delivery 10 schedule that we believe provides Frontier with 11 the appropriate growth levels to close this 12 conversation. We need to have a manageable 13 growth rate in 2022/3/4 and by sliding 7 14 aircraft we achieve this."</p> <p>15 Did I read that correctly?</p> <p>16 A. You did.</p> <p>17 Q. What did you understand appropriate 18 growth levels for Frontier to be?</p> <p>19 A. That gets back to what I was talking 20 about earlier where our analysis is on capacity 21 and cash flow. And capacity results in growth 22 level.</p> <p>23 Q. Let's look at page 9071, which 24 includes the attachment to Mr. Dempsey's 25 e-mail.</p>	<p>Page 115</p> <p>1 THWAYTES - CONFIDENTIAL 2 to be Frontier's counterproposal to what Airbus 3 was proposing in the previous column, right?</p> <p>4 A. That's right.</p> <p>5 Q. Was Frontier proposing to change any 6 of the delivery dates concerning the aircraft 7 covered by the Framework Agreement?</p> <p>8 A. Originally, Jane had sent me an 9 e-mail that asked for a three to six-month 10 delay in the aircraft under -- that were to be 11 delivered under the Framework Agreement, and we 12 were working to achieve, at the minimum, a 13 three-month delay in the aircraft under the 14 Framework Agreement to meet her request.</p> <p>15 Airbus was very motivated to get the 16 aircraft delivered as soon as possible because 17 they also had a cash flow problem, and they 18 don't get paid for the aircraft besides the PDP 19 payments until they are delivered. And these 20 aircraft were fully assembled or very close to 21 it, mostly in Mobile, Alabama, where they have 22 a small facility where there isn't a lot of 23 room to park the aircraft.</p> <p>24 So we made the request to delay all 25 of these aircraft including the five that are</p>

30 (Pages 114 - 117)

<p style="text-align: right;">Page 118</p> <p>1 THWAYTES - CONFIDENTIAL 2 AMCK aircraft for a minimum of three months, 3 and the feedback we got from Airbus was that 4 that's all that they could accommodate. 5 So our counter stuck with that, met 6 Airbus' requirement and Jane's request of three 7 to six months. 8 Q. So just to make sure I understand, 9 in this counterproposal from Frontier, Frontier 10 was not proposing to change any of the most 11 recent proposals from Airbus regarding the 12 delivery date for the aircraft covered by the 13 Framework Agreement, correct? 14 A. I believe, in conversations with 15 Airbus, we had already concluded that they 16 would not delay the aircraft any further than 17 this, at this point in time. 18 Q. So I'm looking just for a yes-or-no 19 answer. 20 In this counterproposal from 21 Frontier, did Frontier propose to change any of 22 the delivery dates for the aircraft covered by 23 the Framework Agreement? 24 A. Not between the Frontier Airbus V2 25 and the revised F9 counter.</p>	<p style="text-align: right;">Page 120</p> <p>1 THWAYTES - CONFIDENTIAL 2 15 aircraft listed; is that right? 3 A. That's right. 4 Q. And then there is a new SDM (Airbus) 5 for 2020 of six aircraft; is that right? 6 A. That's right. 7 Q. What does that column mean? 8 A. That means the new number of 9 aircraft that are scheduled to be delivered in 10 2020. 11 (Reporter Clarification.) 12 Q. And then the column to the right is 13 new SDM (Frontier), and it shows six; is that 14 right? 15 A. That's right. 16 Q. So both Airbus and Frontier were 17 proposing six aircraft to be delivered during 18 2020; is that right? 19 A. That's right. 20 Q. As opposed to the original plan for 21 there to be 15 aircraft to be delivered in 22 2020, right? 23 A. That's right. 24 Q. Those aircraft that were originally 25 scheduled for 2020 but not to be included in</p>
<p style="text-align: right;">Page 119</p> <p>1 THWAYTES - CONFIDENTIAL 2 Q. So this chart with some revisions 3 from Frontier relates to aircraft not covered 4 by the Framework Agreement, correct? 5 MR. HOSENPUD: Object to the form of 6 the question, misstates the chart and 7 information in it. 8 You can answer. 9 A. It appears to cover aircraft in the 10 Framework Agreement and outside of the 11 Framework Agreement. 12 Q. The proposed changes that Frontier 13 was making as reflected in this chart, those 14 changes do not relate to aircraft covered by 15 the Framework Agreement, correct? 16 A. (Document review.) Correct. 17 Q. Let's go back to the first page of 18 this document, to Mr. Dempsey's e-mail. 19 He says -- well, he includes an AC 20 count comparison with years of 2020 and 2021, 21 and then there's other information that's 22 redacted underneath that. 23 Do you see that? 24 A. I do. 25 Q. For 2020, there's an original SDM of</p>	<p style="text-align: right;">Page 121</p> <p>1 THWAYTES - CONFIDENTIAL 2 2020 according to this proposal, when would 3 those be delivered? 4 A. What you're not seeing here, and in 5 that chart below that we were looking at 6 because it's redacted, are the delivery years 7 post 2021 where there were changes in aircraft 8 delivery periods. 9 So to answer your question, you 10 would see that flow down further into other 11 years that are redacted in this document. 12 Q. Mr. Dempsey goes on to say, "This 13 proposal is dependent on the following," and he 14 lists four numbered points there. 15 Do you see that? 16 A. I do. 17 Q. The first point is "Extension of XLR 18 election by six months to year end 19 (December 31, 2020)." 20 Do you see that? 21 A. I do. 22 Q. What do you understand that to mean? 23 A. We have -- 24 THE WITNESS: David, this is a bit 25 confidential as well.</p>

<p style="text-align: right;">Page 138</p> <p>1 THWAYTES - CONFIDENTIAL</p> <p>2 Q. So if you could please look at this</p> <p>3 document, you will see it's a March 16, 2020,</p> <p>4 e-mail from you to Jane O'Callaghan, subject,</p> <p>5 "Concession Request Letter."</p> <p>6 Do you see that?</p> <p>7 A. I do.</p> <p>8 Q. Do you recall sending a concession</p> <p>9 request letter to AMCK at this time?</p> <p>10 A. Yes.</p> <p>11 Q. If we could go to the next page of</p> <p>12 the document with Bates number 241, there's a</p> <p>13 letter dated March 16, 2020, to Jane</p> <p>14 O'Callaghan.</p> <p>15 And if you scroll to the next page,</p> <p>16 you'll see it's signed by you; is that right?</p> <p>17 A. That's right.</p> <p>18 Q. What were you asking for in this</p> <p>19 letter?</p> <p>20 A. I was asking for the rent payments</p> <p>21 between the upcoming rent payments -- well, the</p> <p>22 rent payments due between the date of this</p> <p>23 letter and I believe the end of June of 2020 to</p> <p>24 be deferred and then return of one-month</p> <p>25 security deposit.</p>	<p style="text-align: right;">Page 140</p> <p>1 THWAYTES - CONFIDENTIAL</p> <p>2 it at no.</p> <p>3 Q. In the paragraph just below numbered</p> <p>4 points 1 and 2, which you described as, "1. All</p> <p>5 lease rent payments due between the date of</p> <p>6 this letter and June 30, 2020 will be deferred;</p> <p>7 and 2. Return of one month's rent security</p> <p>8 deposit."</p> <p>9 In that next paragraph, you say,</p> <p>10 "The above concessions would be documented in a</p> <p>11 mutually agreed deferral and concession</p> <p>12 agreement."</p> <p>13 Do you see that?</p> <p>14 A. I do.</p> <p>15 Q. What did you mean by that?</p> <p>16 A. That once we came to an agreement,</p> <p>17 we would document that agreement.</p> <p>18 Q. So you expected that if your request</p> <p>19 for a deferral was granted, that would be</p> <p>20 documented in an agreement?</p> <p>21 A. Yeah, once the final agreement on</p> <p>22 the deferral was granted, it would be</p> <p>23 documented.</p> <p>24 Q. Did you send substantially similar</p> <p>25 letters to other lessors of Frontier?</p>
<p style="text-align: right;">Page 139</p> <p>1 THWAYTES - CONFIDENTIAL</p> <p>2 Q. In the third paragraph of your</p> <p>3 letter, you say, "Unlike some other companies,</p> <p>4 against the back drop of today's rapidly</p> <p>5 changing landscape, Frontier is determined to</p> <p>6 continue delivering our growth strategy and</p> <p>7 fulfilling expectations of our shareholders,</p> <p>8 including yourselves. Our devotion should,</p> <p>9 however, not be taken for granted."</p> <p>10 Do you see that?</p> <p>11 A. I do.</p> <p>12 Q. What did you mean by your devotion</p> <p>13 should not be taken for granted?</p> <p>14 A. I believe that what I meant was,</p> <p>15 even though we were requesting these, the</p> <p>16 points 1 and 2 here, that our devotion to</p> <p>17 fighting through this crisis that we were in</p> <p>18 should not be taken for granted. Meaning that</p> <p>19 we would try to find all means to be successful</p> <p>20 through the COVID crisis and its impact on the</p> <p>21 airline industry.</p> <p>22 Q. Were you saying, absent some kind of</p> <p>23 assistance, you wouldn't be able to make rent</p> <p>24 payments?</p> <p>25 A. No. I was saying that -- I'll leave</p>	<p style="text-align: right;">Page 141</p> <p>1 THWAYTES - CONFIDENTIAL</p> <p>2 A. I did.</p> <p>3 Q. Did you send substantially similar</p> <p>4 letters to all of Frontier's other lessors?</p> <p>5 A. I believe so.</p> <p>6 Q. How many other lessors are there?</p> <p>7 A. At this point in time, I don't</p> <p>8 remember the exact number, but I would guess</p> <p>9 somewhere around 15.</p> <p>10 Q. Did there come a point in time when</p> <p>11 Frontier made the decision to send this letter</p> <p>12 or substantially similar letters to all of its</p> <p>13 lessors?</p> <p>14 A. Yes.</p> <p>15 Q. When did Frontier make that</p> <p>16 decision?</p> <p>17 A. When the gravity of the situation</p> <p>18 got to the point where we believed that we</p> <p>19 needed to take this action with all of our</p> <p>20 lessors and other significant suppliers.</p> <p>21 Q. Do you recall what time that</p> <p>22 decision was?</p> <p>23 A. I don't remember what time it was,</p> <p>24 but I recall that it was -- I don't recall what</p> <p>25 time it was, no.</p>

<p style="text-align: right;">Page 158</p> <p>1 THWAYTES - CONFIDENTIAL 2 Accipiter? 3 A. I don't remember specifically, no, 4 but as one of our lessors, I'm sure we 5 considered potential cross-defaults in their 6 agreement, just like all of the others. 7 Q. Mr. Thwaytes, we looked earlier at 8 the concession letter that you wrote to Jane 9 O'Callaghan, and you referred in that letter to 10 your expectation that any agreement would be in 11 writing; is that right? 12 A. Any -- yeah, the final agreement 13 would be in writing, documented. I forget the 14 language exactly. 15 Q. And that was your expectation as 16 well? 17 A. Yes. And that was the result of 18 negotiations with other lessors, we put the 19 agreements in writing once we came to a final 20 agreement. 21 Q. How many other lessors did you reach 22 such agreements with? 23 A. I don't know the number. I don't 24 recall the number. 25 MR. ALEXANDER: Let's look at</p>	<p style="text-align: right;">Page 160</p> <p>1 THWAYTES - CONFIDENTIAL 2 Q. And she goes on, "and the other 3 agreement is for the aircraft owned by UMB. 4 The substance of the omnibus agreement is the 5 same was the one aircraft agreement that we 6 circulated prior." 7 Do you see that? 8 A. I do. 9 Q. And attached to this e-mail, if you 10 go to the page Bates numbered 16508, you'll see 11 a draft Omnibus Lease Payment Deferral and 12 Waiver Agreement, and that document relates to, 13 in the first paragraph, UMB; is that right? 14 A. Yes. 15 Q. And these are the -- of the 14 16 original leases, these are the leases that deal 17 with UMB as owner trustee, right? 18 A. I don't recall the owner trustee for 19 all of our leases, but we are -- in this 20 document, UMB is listed as the owner trustee. 21 Q. Would you please look at page 16517? 22 This is Schedule 2 of that same 23 draft agreement, and it lists, in different 24 charts, seven different aircraft, if you scroll 25 through to the next few pages.</p>
<p style="text-align: right;">Page 159</p> <p>1 THWAYTES - CONFIDENTIAL 2 AMCK16504, and we will call this 3 Exhibit 22. 4 (Thwaytes Exhibit 22, E-Mail Chain 5 With Attachment, Bates Stamped AMCK16504 6 through 16531, marked for identification.) 7 Q. Mr. Thwaytes, this is an April 1 8 e-mail from a Ms. Miao to Jane O'Callaghan and 9 copying others including you. 10 Do you see that? 11 A. I do. 12 Q. Apologies if I'm mispronouncing the 13 name, but Ms. Miao, do you understand to be 14 Frontier's counsel at Lane Powell? 15 A. Yes. 16 Q. She writes, "Hi Jane, we circulated 17 a draft lease payment waiver and deferral 18 agreement form on March 24. To facilitate 19 document execution, we created two omnibus 20 agreements to include multiple aircraft. One 21 agreement is for the aircraft currently owned 22 by WFT." 23 Do you understand that to be Wells 24 Fargo? 25 A. Wells Fargo Trust, I assume.</p>	<p style="text-align: right;">Page 161</p> <p>1 THWAYTES - CONFIDENTIAL 2 And if we could go back up to the 3 top of Schedule 2 and just call your attention 4 to the form of the chart. There's a rent date 5 in the left column, which for the first 6 aircraft listed there, MSN 8766, describes rent 7 dates on April 22, May 22, June 22, July 22 and 8 it goes on. 9 Do you see that? 10 A. I do. 11 Q. And an amount of rent payable, in 12 the next column, which shows zero dollars for 13 April 22, May 22 and June 22, right? 14 A. That's right. 15 Q. And then starting on July 22, the 16 amount of rent payable is listed as 17 \$347,864.42. 18 Do you see that? 19 A. I do. 20 Q. And that same number repeats for 21 each payment date listed in the chart 22 thereafter, right? 23 A. That's right. 24 Q. Do you have any reason to believe 25 that the rent dates listed there are different</p>

<p style="text-align: right;">Page 162</p> <p>1 THWAYTES - CONFIDENTIAL 2 from the rent dates for payment under the Lease 3 Agreement for MSN 8766? 4 A. I don't have -- I don't remember 5 what the rent dates are and the amounts in that 6 Lease Agreement, but I would have to assume 7 that if these are the dates we put in here, 8 it's because those are the dates that are in 9 the Lease Agreement.</p> <p>10 Q. And if you flip forward to the 11 page 16520.</p> <p>12 MS. WANG: Sorry, Jack, which Bates 13 number?</p> <p>14 MR. ALEXANDER: 16520. So later in 15 the document. There we go.</p> <p>16 Q. This is another draft Omnibus Lease 17 Payment Deferral and Waiver Agreement. This 18 one, if you look at the first page, with Wells 19 Fargo, right?</p> <p>20 A. Yep.</p> <p>21 Q. And if we flip forward to the page 22 with Bates number 16529, you see a similar 23 Schedule 2, which lists charts for seven 24 different aircraft.</p> <p>25 Do you see that? We can scroll down</p>	<p style="text-align: right;">Page 164</p> <p>1 THWAYTES - CONFIDENTIAL 2 undetermined because we continued to have 3 dealings with AMCK the first part of May. 4 So it was kind of an ambiguous end 5 date that continued to be pushed out as we 6 continued to pursue what AMCK had requested us 7 to pursue with Airbus.</p> <p>8 MR. ALEXANDER: Let's pull up 9 AMCK16622. This will be Exhibit 23.</p> <p>10 (Thwaytes Exhibit 23, E-Mail Chain, 11 Bates Stamped AMCK16622 through 16624, 12 marked for identification.)</p> <p>13 Q. This is an April 6, 2020, e-mail 14 from Jimmy Dempsey to Paul Sheridan, and he's 15 copying you and others.</p> <p>16 Do you see that?</p> <p>17 A. I do.</p> <p>18 Q. And he's replying to a Paul Sheridan 19 e-mail on April 6 in which Mr. Sheridan says, 20 "Hi Jimmy, we just got off the phone with 21 Robert, and so I would like to confirm what we 22 discussed. Mindful of the time it might take 23 you to reach agreement with Airbus or to make 24 some other arrangements and, therefore, of the 25 ability for us to reach a deferral agreement,</p>
<p style="text-align: right;">Page 163</p> <p>1 THWAYTES - CONFIDENTIAL 2 through the charts to give you a sense. 3 A. I get a sense for it.</p> <p>4 Q. Okay. And these charts look similar 5 to the charts we just looked at, but do you 6 have any reason to believe that any of the rent 7 dates or rent payment amounts in any of these 8 charts are wrong?</p> <p>9 A. No, I don't have any reason to 10 believe that they're wrong.</p> <p>11 Q. Are these the type of documentation 12 that you were expecting would be the result of 13 your request for a concession?</p> <p>14 A. I believe we had our counsel draft a 15 template that we would use to document these 16 rent deferrals, and this is that template.</p> <p>17 Q. Mr. Thwaytes, do you understand 18 that, in April of 2020, AMCK agreed to a 19 ten-day grace period for Frontier's rent 20 payment obligations?</p> <p>21 A. I understand that they provided us 22 with a ten-day grace period.</p> <p>23 Q. Do you know the end date of that 24 grace period?</p> <p>25 A. The end date of the grace period was</p>	<p style="text-align: right;">Page 165</p> <p>1 THWAYTES - CONFIDENTIAL 2 we can confirm that we won't take any actions 3 or call any defaults linked to nonpayment of 4 rents on any aircraft where the rent is due 5 from today to 21 April; i.e., for the next ten 6 working days."</p> <p>7 Do you see that?</p> <p>8 A. Unfortunately, that's not what's on 9 the screen right now.</p> <p>10 MR. HOSENPUDE: You have not shown 11 that in the document.</p> <p>12 MR. ALEXANDER: I'm sorry. Let's 13 make that visible.</p> <p>14 Q. Have a look at it.</p> <p>15 A. (Document review.) I see that.</p> <p>16 Q. So Mr. Sheridan was saying there was 17 a ten-day grace period until 21 April, correct?</p> <p>18 A. In his e-mail that's what he states.</p> <p>19 Q. And did you understand that that's 20 when the grace period he was talking about 21 ended?</p> <p>22 A. At the point in time when he sent 23 this e-mail, we understood that that's when the 24 grace period ended.</p> <p>25 Q. Did anyone at AMCK ever state in</p>

<p style="text-align: right;">Page 166</p> <p>1 THWAYTES - CONFIDENTIAL 2 writing that that grace period was extended? 3 A. There was some communication around 4 the grace period being extended to May 15, that 5 I recall. That's all I recall in writing 6 related to a different end of the grace period. 7 Q. What can you recall about that 8 communication that you referenced? 9 A. Without seeing it, I think it was -- 10 I think it was a counterproposal of some type 11 from -- I don't know if it was Paul or Jane. I 12 don't recall. I think it was a counterproposal 13 from them. I don't remember the date that it 14 was sent, but I think it was probably later in 15 April. I don't remember. 16 Q. Do you know if Frontier accepted 17 that counterproposal? 18 A. Frontier acted on that 19 counterproposal and went to -- continued to try 20 to achieve what I think Accipiter was 21 requesting in it, but I don't believe Frontier 22 accepted the counterproposal. 23 Q. Apart from that e-mail that you're 24 thinking of, do you recall any other written 25 communications from AMCK that you think</p>	<p style="text-align: right;">Page 168</p> <p>1 THWAYTES - CONFIDENTIAL 2 A. Not where they explicitly extended 3 the ten-day grace period, but conversations 4 around us continuing to work to achieve what 5 they had requested that we achieve in order to 6 get the rent deferral. 7 Q. Apart from the ten-day grace period 8 referred to in Mr. Sheridan's e-mail, are you 9 aware of any other grace period that anyone at 10 AMCK granted to Frontier at this time? 11 A. Besides the grace period that we had 12 in our agreements with them, which were already 13 in place at this time, I'm not aware of any 14 additional grace periods explicitly being 15 provided to us. 16 Q. And that's both in writing or 17 orally, you're not aware of any, right? 18 MR. HOSENPUD: Object to the form of 19 the question, assumes facts not in 20 evidence. 21 You can answer. 22 A. No. 23 MR. ALEXANDER: Let's mark the next 24 Exhibit 24, Frontier's interrogatory 25 responses.</p>
<p style="text-align: right;">Page 167</p> <p>1 THWAYTES - CONFIDENTIAL 2 extended the ten-day grace period that ended, 3 in this e-mail, on April 21? 4 A. Yes, there were a lot of 5 communications back and forth with AMCK asking 6 us to continue to negotiate with Airbus, to 7 delay the delivery dates of the aircraft that 8 were under the Framework Agreement, a number of 9 new proposals, updates on where AMCK was in 10 their dealings with -- internally. 11 So there were a number of 12 communications to us that encouraged us to 13 continue to try to progress -- to achieve the 14 request that they had made to us in order to 15 put the rent deferral in place. 16 Q. But were there any communications 17 that stated in writing that the ten-day grace 18 period was extended? 19 A. There was no communication that 20 explicitly stated that the ten-day grace period 21 was extended, that I recall. 22 Q. Apart from written communications, 23 were you a part of any discussions orally where 24 anyone at AMCK extended the ten-day grace 25 period?</p>	<p style="text-align: right;">Page 169</p> <p>1 THWAYTES - CONFIDENTIAL 2 (Thwaytes Exhibit 24, Plaintiff 3 Frontier Airlines, Inc.'s Response to 4 Defendants' First Interrogatories, marked 5 for identification.) 6 Q. Mr. Thwaytes, I will represent to 7 you that this document is a document that 8 Frontier provided to defendants in this 9 litigation responding to various 10 interrogatories, which are requests by AMCK. 11 MR. ALEXANDER: If we could, Gege, 12 please go to interrogatory number 6. 13 Okay. 14 Q. Do you see interrogatory number 6 15 there, Mr. Thwaytes, asks "For each claim for 16 relief set forth in the Complaint, describe 17 each category of damages claimed by Frontier 18 including by (a) identifying the amount of each 19 category of damages (or, if presently unknown, 20 an estimate of the amount of damages, (b), 21 describing with specificity how Frontier has 22 incurred or will incur such damages, (c), 23 providing the dates on which such damages were 24 incurred and (d) identifying all persons with 25 knowledge of such damages."</p>

<p style="text-align: right;">Page 170</p> <p>1 THWAYTES - CONFIDENTIAL 2 Do you see that? 3 A. I do. 4 Q. And then what follows in the next 5 paragraph is an answer, which includes a number 6 of objections. 7 In the last sentence on that page, 8 it says, "Plaintiff responds as follows: 9 Plaintiff claims damages related to its 10 agreements with CDB Aviation and Jackson Square 11 Aviation, which agreements specifically reduced 12 purchase price per aircraft, increased rent per 13 aircraft, and provided less favorable return 14 condition provisions, less favorable early 15 termination options, and less favorable 16 on-watch burden. Damages associated with 17 Plaintiff's agreement with CDB Aviation total 18 approximately \$31,313,400. Damages associated 19 with Plaintiff's agreement with Jackson Square 20 Aviation total approximately \$21,866,100. 21 Plaintiff incurred such damages in or around 22 June 2020. Individuals with knowledge of such 23 damages include Jimmy Dempsey, Robert Fanning, 24 Spencer Thwaytes, and Sharath Sashikumar 25 Bindu."</p>	<p style="text-align: right;">Page 172</p> <p>1 THWAYTES - CONFIDENTIAL 2 or cycle that you've utilized on the aircraft 3 and the engines at return, since those 4 components were last overhauled or the aircraft 5 went into a heavy check. 6 And then -- and then the early 7 termination options, I think that that has 8 to -- I'm not sure what that has to do with off 9 the top. The less favorable on-watch burden is 10 a condition where we have to resolve an issue 11 on the aircraft and/or engine prior to lease 12 return, if there is a condition that is on 13 watch. That was not in the AMCK Framework 14 Agreement or the AMCK leases. 15 Does that answer your question? 16 Q. Well, apart from the harm you've 17 just described resulting from the termination 18 of the Framework Agreement, has Frontier 19 suffered any other financial harm that it's 20 seeking to recover in this case? 21 A. I'm not -- there is additional 22 financial harm that Frontier was exposed to 23 that I'm not certain is contemplated in the 24 damages here. 25 For example, extending the delivery</p>
<p style="text-align: right;">Page 171</p> <p>1 THWAYTES - CONFIDENTIAL 2 Do you see that? 3 A. I do. 4 Q. Would you please explain your 5 understanding of the financial harm suffered by 6 Frontier as a result of the termination of the 7 Framework Agreement? 8 A. The difference between the sales 9 price that Accipiter was obligated to pay per 10 the Framework Agreement and the sales price 11 that we were able to negotiate with CDB and 12 Jackson Square, the difference in the present 13 value of the rent payments that we would have 14 been obligated to pay under Accipiter's 15 obligation under the Framework Agreement 16 compared to the rent we were able to negotiate 17 with CDB and with Jackson Square, the 18 difference in return conditions. 19 So I don't know the specific 20 difference in the returns conditions. There's 21 a lot of different returns conditions, but the 22 differences could be the amount of hours and 23 cycles that are required to be on certain 24 components of the aircraft including the engine 25 at return, and the rate that you pay per hour</p>	<p style="text-align: right;">Page 173</p> <p>1 THWAYTES - CONFIDENTIAL 2 date of the aircraft or delaying the delivery 3 date of the aircraft required that Frontier 4 have a -- have borrowings under its PDP credit 5 facility for a longer period of time, and there 6 was interest expense that had to be paid on 7 that. 8 The cash that Frontier had on 9 deposit in support of the PDP payments could 10 not be utilized to be invested if it was excess 11 or to pay other obligations, pushing out 12 some -- or delaying aircraft. 13 Also, during this period of time, it 14 did not -- that isn't something that -- never 15 mind. Strike that last part what I was saying. 16 I don't believe that resulted in any 17 financial harm, just the change in the delivery 18 schedule on the utilization of the aircraft. 19 Was I clear there? Sorry. I was 20 just thinking through it in my head. 21 Q. Thank you. 22 Were any of the Lease Agreements for 23 the 14 original leases or the more recent lease 24 for MSN 10038, were any of those leases 25 terminated?</p>

<p style="text-align: right;">Page 174</p> <p>1 THWAYTES - CONFIDENTIAL 2 A. Those leases were not terminated. 3 Q. Frontier still possesses the 4 aircraft under those leases, right? 5 A. Frontier still possesses the 6 aircraft under those leases. 7 Q. Did defendants ever prevent Frontier 8 from using those aircraft? 9 A. No. 10 Q. Let's go back to the category of 11 damages you discussed when describing the 12 termination of the Framework Agreement. 13 First, you referred to the 14 difference between sale price that Accipiter 15 was under the obligation to pay and the sales 16 price negotiated with CDB and JSA. 17 Is that related to the different 18 purchase price owed by Frontier to Airbus and 19 then whatever price was agreed to in the 20 sale-leaseback transactions? 21 A. There's two components to it. One 22 is the difference in what Accipiter was 23 obligated to pay and what CDB and Jackson 24 Square were, again, willing to pay. 25 And then the second part is the</p>	<p style="text-align: right;">Page 176</p> <p>1 THWAYTES - CONFIDENTIAL 2 sale price and the different rent values. 3 Did you calculate dollar amounts 4 related to any of the other categories of 5 damages you discussed? 6 A. This would be a better question for 7 Sharath who was responsible for calculating 8 these amounts, but if they are listed in this 9 agreement, they should be included in those 10 dollar amounts.</p> <p>11 MR. ALEXANDER: Let's pull up 12 FRONTIER008478. 13 (Thwaytes Exhibit 25, E-Mail With 14 Attachment, Bates Stamped FRONTIER008478, 15 marked for identification.) 16 Q. This is an e-mail from 17 Mr. Sashikumar Bindu to you, copying Robert 18 Fanning. 19 He says, "Hi Spencer, please see 20 attached the file updated per our discussion." 21 And then, if we go to the next page, 22 you see there's a document attached, which is a 23 bit difficult to read, but do you see that -- 24 if we can zoom in, you'll see that there's a 25 chart that shows different damages</p>
<p style="text-align: right;">Page 175</p> <p>1 THWAYTES - CONFIDENTIAL 2 continued escalation in the purchase price of 3 the aircraft as a result of delaying the 4 aircraft. 5 Q. You also referred to the present 6 value of the rent payments compared to the 7 rents under the CDB and JSA contracts; is that 8 right? 9 A. That's right. 10 Q. Is it fair to say that the rents 11 that will be paid over the life of those 12 contracts Frontier is not paying all at once 13 today, right? 14 A. No. And that's why we did a net 15 present value of it. So that you get -- you 16 arrive at today's dollars. 17 Q. Do you know if the dollar amounts 18 reflected in this interrogatory response 19 reflect that discount to present value? 20 A. I don't -- I don't know that because 21 I don't have the math in front of me, but I 22 believe that what made it into this document is 23 what we calculated as the damages that included 24 the net present value of the rent. 25 Q. We just spoke about the different</p>	<p style="text-align: right;">Page 177</p> <p>1 THWAYTES - CONFIDENTIAL 2 calculations; is that right? 3 A. That looks right. 4 Q. What we have done is we have taken 5 that chart on the left, and we'll put that in 6 its own document so you can see it a bit more 7 clearly. 8 A. Sure. 9 (Thwaytes Exhibit 26, Blown-Up 10 Chart, Bates Stamped FRONTIER008479, 11 marked for identification.) 12 Q. But you see there's three columns 13 there, AMCK, CDB and JSA. There's a purchase 14 price listed for AMCK of 51 million, and that's 15 the purchase price provided for in the 16 Framework Agreement, right? 17 A. Correct. 18 Q. And then for CDB, there's a purchase 19 price listed of 48.5 million. And for JSA, 20 there's a purchase price listed of 49 million, 21 right? 22 A. Correct. 23 Q. And then below that, there's a B/W 24 to AMCK. 25 What does B/W mean?</p>

45 (Pages 174 - 177)